Q. So up to May 19, 1949 there had never really been any occasion for you to make a study of the question as to whether you preferred the doctor to bill the patient? A. Well, I have this in mind, Mr. Jaureguy. Not so far as rendering the service to the people—I had in mind that people, our purpose was to give the people the service, and as long as the people got the service it made no difference with us, from the point of view of service. I think you misunderstood me there and I probably didn't make myself clear.

Q. Oh, you made yourself very clear. A. From the point of view of the service, as long as our people get the service that is what we are interested in, that is very true, but when it comes to the working out of the plans it certainly makes a big difference if you are going to deal directly with the doctor or you deal with the patient. There are three parties concerned, four parties many times. When bills are sent direct to the Association naturally we can process them quicker, we can pay our bills quicker, we can avoid misunderstandings that many times arise in the minds of the employee and many times in the minds of the employer, so I do want to make a correction of my deposition.

Q. Oh. So I take it that if you are going to have any arguments you would rather have them with the doctor than with the member or the employer? A. Well,
2784 we want to keep our members.

Q. May I have that back? A. Yes, you may. We want to keep our members satisfied and the doctors too, true.

Q. Well, what kind of misunderstanding is it that you might have with your members that you want to avoid? A. Well, when the doctor sends a bill to the member—he has presented his ticket to the doctor—we will take a case like this. He goes in the doctor's office and if he has a girl she says, "Well, we are sorry, we can't take that ticket," or perhaps he doesn't have a girl and he goes in the doctor's office and the doctor throws the ticket down and probably throws it in the wastebasket. That has been reported to us. "What's the matter, Doctor?" "Oh, that outfit don't pay their bills," or "That outfit, it's hard to get money out of them," or "That outfit, they are no good." Now, those are the reports that come to us.

The Court: Do you know of any doctor that doesn't have one or more girls nowadays?

A. Yes. In the small districts there are doctors who do not have girls. I couldn't name them now, your Honor, but I know a few years ago there were quite a few that didn't have.

The Court: I don't believe you could name any now.

A. Well, I was not speaking—when that letter was written times were different.

2785 Mr. Jaureguy:

Q. But the deposition wasn't written when times were different. Now, I would like to ask you this question: The doctor throws the ticket in the wastebasket and the doctor says this and the doctor says that, so I will ask you if the doctor doesn't say that and doesn't say anything against the National you still think that you would prefer to have the doctor send you the bill rather than give it to the patient? A. Yes, on group contracts we do very much.

Q. How about the individual contracts? A. We explained that this morning.

Q. Yes. You prefer to have the doctor give them to the patients? A. Yes; those contracts are all over the United States and it is impossible to notify every doctor and have an understanding with every doctor.

Q. So you have explained with one doctor, and I daresay others, you prefer to have them bill the patients. A. Yes, on those contracts, but in dealing with the groups—

Q. But on the family contracts you prefer to have the doctor bill the patient? A. Yes.

Q. Also since May 19, 1949 you have changed the views you had in February, 1942 that you prefer this plan—

Mr. Marcus: I have listened quietly for some time, but I do want to call the Court's attention to the fact that
2786 we have put in in addition to the part of Mr. Bechtold's deposition that Mr. Jaureguy put in additional parts of that testimony where he explained how it adversely affected the business.

Mr. Jaureguy:

Q. You have changed your mind since May 19, 1949 as to what you said on February 9th, 1942, that we prefer this plan where the employee personally takes up his bill since it gives us the advantage of the patient checking the services he has received and makes him more conscious

of the benefits he has received under his contract. You have changed your mind on that too? A. I think in some instances that might be the situation. The average workingman doesn't pay much attention there. There is a practice and custom grown up in this section ever since we have been in business of the employee to get what he calls a hospital ticket. He takes it to his doctor and that is his pay.

2787 Q. Now, I said since May 19, 1949, you have changed your mind. As a matter of fact, you testified also on October 21, 1949, do you remember, here on this witness stand? Do you recall that? A. Yes, I was here.

Q. At that time you also testified that it was not a matter of importance to you whether the doctor billed the patient or billed you. Do you remember that? A. Could you read that to me, please?

Q. I will try to. Page 479:

"Q. If he sends the patient an itemized bill, without knowing that he has a ticket, will the patient have difficulty in obtaining reimbursement? A. No, not if the bill is properly itemized, he wouldn't; no.

"Q. So it is possible for a doctor to cooperate with National without ever knowing that the member has a ticket? A. That is right, and I believe it is also possible for a doctor to get his money from us without even knowing it.

"Q. If a patient calls up a doctor and says, 'I have got some kind of an insurance policy. I don't know whom it it with, or by or what, but could you send me an itemized statement?' and the doctor sends him an itemized

2788 statement, that is cooperation with National? Yes.

"Q. So, now, it is a matter of indifference to you, isn't it, whether the doctor accepts the ticket and sends in a bill or whether the member sends in the bill and obtains the check? A. I would say if the doctor rendered services to the member and gave him the information that was required on his bill, it would make no difference to us.

"Q. Make no difference to you? A. That is right."

Have you changed your mind on that? A. Yes, materially. I didn't like the—I didn't think of the complications of that thing, and I have just been thinking—I am the general manager of the company and today I am spending a large per cent of my time handling claims on cases just like this where doctors have refused to accept tickets.

The complications that have arisen in our office—they are enormous. I daresay our clerical force has been increased 50 per cent. My time is taken up in handling these things. It becomes a case where, in connection with some of these doctors' accounts, you have to handle every case individually, while, where you deal with the doctors and the doctors accept tickets and they send in their bills, you handle it all in one process, an entire group of bills. It does make a lot of difference.

2789 Q. I take it on October 21, 1949, when you testified in the manner I have read to you, you meant what you said at that time? A. I did at that time, yes, and I still agree—I realize your position. You want to try to confuse me, and you have, in a degree.

Q. Yes. A. But I am still telling just exactly how I feel now. I really am.

Q. These matters that have entered into your deliberation since October 21, 1949, that have caused you to change your mind, did you ever give consideration to these matters before October 21, 1949? A. Well, no, I didn't think any more of it until it came up now.

Q. There was no occasion prior to October 21, 1949, for you to give thought to these matters, is that it? A. No, I don't think so, because the trial was not on and I didn't give much thought—we are pretty busy down there, Mr. Jaureguy.

Q. Since you have changed your views on that matter, have you notified the doctors you would prefer for them to send you the bills rather than to give them to the patient? A. I don't think any notice from us would be of any avail.

Q. In other words, you have not? A. What? They just don't send us bills. They get tickets and they

2790 don't—

Q. Has there been any persuasion on the part of anybody to get you to change your views on this subject? A. Not a particle. Well, I won't say that. In our office we have talked this thing over and it was pointed out to me I had made a big mistake in my statement.

Q. Who pointed that out to you? A. People in our office, one in the claims department. I discussed it with them, the mistake that I had made.

Q. Did you talk it over with Mr. Marcus? A. No, not particularly, I didn't.

Q. Just in a general way? A. A general way, that is right.

Q. Did he tell you that you had made a mistake, too? A. No, Mr. Marcus did not.

Q. Mr. Page did, though? A. Well, we discussed it in the claims department, yes. He is a part of it. I think you can understand this, Mr. Jaureguy.

Q. Understand what? A. The difference between processing one account and maybe a hundred. Look at the mailing expense alone.

Q. Yes, but I will have to say I was very much impressed with the argument you gave in your letter to Forcia & Larsen of the advantages of having the bill go to the patient. A. I wish I could support that ground, but I really can't.

2791 Q. I suppose, as you said before, some doctors are dishonest and I suppose if a doctor tends to pad his bill, giving the bill to the patient would be a check, wouldn't it? A. No. Sometimes it might work the other way. There have been cases, probably, where the doctor and the patient would have an understanding that they would divide a lot of the proceeds.

Q. Do you know of any such cases? A. Well, I would not want to say that I knew the names. We have reason to suspicion some, yes.

Q. You do not think that would be any check on padding at all if a doctor gave a phoney bill to his patient? A. I think at times probably some of the men would catch it. I think they would, but I think as a general thing we run the risk of collusion,—we would lose as much possibly by collusion as we would by having the advantage of the patient checking the bill.

Q. Of course, you can have collusion if they send the bill direct to you? A. Yes, they can; but in a case like that if the doctor gets the money he probably would not turn—if the patient, I mean gets the money he would probably not turn it over to the doctor.

Q. Your argument made in 1942 was that it makes the patient more appreciative of the extent of the benefits he gets from National if he has the bill. A. That is

2792 an ideal way of having that. I wish that were true.

Q. You do not think they are quite as ideal as you used to? A. Yes, I do. I am an idealist. I really am.

Q. But I take it that idealism has been outweighed by practical considerations in your changing your mind on this? A. If I could show a letter that I received this morning—

Q. If you will answer my question, please, then we will take that up. A. What is the question?

Q. That your idealism on this matter has been outweighed by some kind of practical considerations? A. That is right.

Q. Since October, 1949? A. That is right. It has.

Q. I think you had better let your attorney have that letter and he will decide what to do. A. I was going to use this as a part of my answer.

Q. Is that part of the answer to the question I just asked?

Mr. Marcus: Let him continue. Let him continue his answer.

Mr. Jaureguy:

Q. Will you answer my question? A. Let me hear it.

Q. Is the reading of that letter an answer to the question I just asked you? A. What was your question?

2793 Q. I am asking if that is in support of your answer to the question I just asked. A. What is your question?

Q. Whether the idealism you spoke about has, since October 21, 1949, been outweighed by some kind of practical consideration? A. Well, my answer was that it has been, yes.

Q. Has been? A. Yes. In support of that this letter, if I may read it, received this morning—

Q. Let me have a look at it, first. I will give it to your attorney and he can decide whether to put it in.

Mr. Marcus: I haven't seen it, but if Mr. Bechtold thinks that is part of his answer, I would like him to read it.

Mr. Jaureguy:

Q. You understand, do you not, Mr. Bechtold, when I ask you a question I want your answer. I do not want the answer of Betty Klekore of Warrenton, Oregon.

Mr. Marcus: Your Honor, I still would like to have him read this letter, if that is a part of his answer.

The Court: You can put it in if you want. I will decide whether it is admissible later.

Mr. Jaureguy:

Q. You said you never got special rates from hospitals? A. I didn't say "never."

Q. Tell us about that. Tell us about what your
2794 arrangements have been with hospitals, where your members have been treated more comfortably and you have paid lower rates than the general public. A. I don't know of any instance for the last ten or fifteen years that we have had any understanding with any hospitals for lower rates than the general public.

Q. What is that? There is a noise outside and I missed your answer. A. I know of no instance within the last ten or fifteen years where we have enjoyed any better rates than the general public or received any better service for our people than the general public, except—

Q. Yes. A. —that I do think all the hospitals appreciated not only the National Hospital Association but the Industrial and the other organizations, the advantages they received from us, and it is possible that they themselves have given special consideration to us.

Q. It is possible, then, you have had lower rates from hospitals? A. Well, not as an advantage to the hospital. They may have, I don't know—

Q. You had a special arrangement with St. Vincent's Hospital in 1930, whereby you sent all your patients up there and you got a lower rate than members of the public got, isn't that a fact? A. No, we did not.

2795 Q. That is not true? A. We certainly did not send all our patients to St. Vincent's Hospital.

Q. Didn't you refuse to pay Portland Sanitarium and Hospital in certain cases when they took care of your members because you had this arrangement with St. Vincent's? A. Mr. Jaureguy, if that was done, I don't recall it. If you have an instance of that, I would be very happy to see it.

Q. I have here Defendants' Exhibit 2732, which is a photostat of a letter from you to Sister Petronella, Superior, St. Vincent's Hospital, dated May 1, 1940:

"I have just learned that St. Vincent's has been committed to organizing a hospital insurance system among the hospitals and that you are to serve on a committee appointed to organize the service.

"This probably should be no concern of mine, but in view of our long, pleasant relations—during which time the National has been rather constant with your hospital—I should dislike to feel that you would be a party to any plan that might injure us. However, as I understand a member of this committee recently was elected to the direc-

torate of a bureau competitor of ours, I feel somewhat alarmed.

"May I have the opportunity of discussing this matter with you?"

2796 Mr. Marcus: I object to any questions with respect to that document on the ground it is irrelevant, your Honor.

The Court: Continue.

Mr. Jaureguy:

Q. Up to the time you wrote this letter had your experiences with St. Vincent's Hospital been always pleasant? A. As far as I recall, they have been very pleasant at St. Vincent's, Good Samaritan, and all other Portland hospitals.

Q. That is, they have always been very cooperative? A. Yes, they have; still are, Mr. Jaureguy.

Q. And that applies, generally speaking, to all hospitals in the State of Oregon, doesn't it? A. Yes. As a matter of fact, we have very nice relations with hospitals.

Q. And you have had continuously? A. Well, I don't say—

Q. I am not talking about the little trouble you had with Sacred Heart in Eugene but I mean, generally speaking? A. Generally speaking, our relations are just splendid with hospitals.

Q. And that has been true from the beginning? A. From my recollection—we have had tiffs; we have had misunderstandings, but, generally speaking, our relations have been and are very pleasant with all the hospitals.

Q. You testified yesterday that you sometimes
2797 gets leads from doctors as to where you can go out and get a new contract with some employer. Do you remember that? A. Yes, I think something was said like that.

Q. Is that something recent or is that a long-standing practice that you came in contact with? A. Well, Mr. Jaureguy, I don't know. There was a time when the doctors were very much interested in the National Hospital Association procuring business in their communities. We would get many suggestions of doctors—I call them leads. We would be told of a new company coming in or would be told of an employer who was considering this plan of service for his employes, and that would be very helpful to us.

Q. You mean leads from doctors who were on your panel in various communities? A. Well, doctors in that community, yes. They were very much interested in this plan of insurance because it helped them to get their money and naturally they were quick to give any support they could to it.

Q. That is, doctors who were working for you? A. Yes, that is right.

Q. Doctors who were not on your panel, they did not benefit from it? A. It could not be expected, but that was a long time ago.

Q. Since 1940, when you opened up the panel—I am fixing that date. If I am wrong on the date, I don't mean to draw you into this at all, but since you opened
2798 up the panel throughout the state, have you continued to get leads from doctors? A. Since the boycott started we have not.

Q. You have not got any since 1940? A. I don't know. I don't remember when the boycott started.

Q. I use the date 1940. I do not recognize that there ever was a boycott. Then your experience has been different than Industrial. A. I don't know what their experience has been.

Q. Mr. Brunkow says they have gotten leads right up to the present time. A. Maybe they are better salesmen than we are.

Q. What is that? A. Maybe they are better salesmen than we are.

Q. I thought salesmanship was what took place after you got your lead, and it wasn't because of that. A. Sometimes you sell it through the doctor, too, you know.

Q. You have testified about Dr. Hemingway in Bend and you said, Page 2668:

"We have had to write an unusually large number of letters to Dr. Hemingway to get the information, and he is the only doctor in Bend that we seem to have any difficulty with, but I don't think that is a reflection on Dr. Hemingway."

Do you have other doctors in Bend who send you
2799 the bills and accept your checks? A. Yes.

Q. About what proportion of them, do you think? A. In Bend I think they all do. They didn't get into the boycott there.

Q. What is that? A. They wouldn't go along with the boycott at Bend.

Q. They never did? A. No.

Q. I think you told us before that, as far as you know, that Boycott only went in nine counties. A. No, I didn't say that. You must have got that from somebody else.

Q. Maybe two other fellows told me. A. Yes.

Q. About the bankruptcy of an employer: If, before the employer went bankrupt, some man under your coverage became ill or suffered an injury, then you continue to take care of him, notwithstanding the bankruptcy of the employer? A. That is right.

Q. But he had paid for that protection, hasn't he? A. He has, sure.

Q. That would be true if an employer quit business for any other reason whatever? A. The fact that the employer does not pay us has not made any difference
2800 with our obligations to the men.

Q. Yes, a man is getting service for something that he has paid for? A. That is right.

Q. If he has paid for it, I take it then you continue it for a year or whatever that period is? A. That is right. We do.

Q. You have never thought you could get out of that by reason of the fact that some employer went bankrupt? A. We never tried to get out of it, Mr. Jaureguy. I believe, though, there was a contract out with some company, with one of the companies where they used to say if they were not paid they would not serve.

Mr. Jaureguy: What is that now? I did not get that.

The Court: Have Mr. Bechtold step down while I talk to the lawyers a minute.

I am going to take the afternoon recess, but I would like to know what your suggestions are when we adjourn at 4:00 o'clock, whether we should adjourn until tomorrow morning at 10:00 or whether we should adjourn until 10:00 o'clock Monday morning.

Mr. Marcus: Speaking personally, your Honor, I would much prefer it tomorrow because I would like to try to get back to Washington in the early part of next week.

The Court: Do you object?

2801 Mr. Marcus: I will do whatever you say.

Mr. Jaureguy: I think we would prefer Monday, for the same reason that he wanted some time.

The Court: You gentlemen throw up a coin between you and whatever comes down I will observe.

(Recess.)

2802 Q. Did I understand you to say that in the '30s the only hospital in Hillsboro was run by an osteopath? A. Well, I don't know that I stated the time. There was a hospital run by an osteopath.

Q. At any rate, since 1925 they have had the Jones Hospital in Hillsboro; that is a general hospital that the doctors practice in? A. It certainly wasn't the same Jones Hospital they have got now.

Q. You mean they built a new one? A. Have they? Well, I don't know.

Q. I say, do you mean that? A. Yes, I think so.

Q. Jones Hospital, don't you know, has been there since 1925? A. Well, Mr. Jaureguy, don't try to pin me down to dates because I just don't remember dates.

Q. Now, I think under your testimony as well as Exhibit 2061 it appears that Dr. John Raaf accepts your tickets and sends you bills and takes patients from you. A. I didn't say that Dr. Raaf accepted our tickets. Dr. Raaf is a specialist. He is a man who does not take patients initially. The patients go to him from other doctors.

Q. I mean he sends you the bills and takes your checks? A. Yes.

Q. And Dr. Chuinard, I think that is shown by Exhibit 2060, likewise sends you bills and accepts your
2803 checks?. A. Well, I don't know. You are trying to get me there. I don't know whether they send the bills or not. I know they take our checks. I don't know about the bills.

Q. And he cooperates over the telephone and tells you about cases? A. Yes, and very nicely, too.

Q. Do you know about Dr. Trommald, John Trommald? A. I don't recall Dr. Trommald.

Q. Now, just one more question, and that is when you were testifying about Dr. Straumfjord you said that you thought perhaps his testimony was influenced by his interest in defeating this case. I am wondering whether subconsciously your interest in aiding the Government in this case is not influencing your testimony? A. No, it is not, Mr. Jaureguy. I would testify just the same, regardless. Naturally, this case is a very important case, not only to us but to all medical people, and in that sense I consider ourselves medical people. I think I stated once before I thought this was foolish. I think it is foolish. I don't mean the case is foolish at this time, but I think the

fact that it had to come is foolish. I don't like to be misunderstood there, because we have a greater threat ahead of us than this squabble between the commercial hospital associations and the doctors. Socialized medicine is very imminent, and it is just things like this that are going to promote it. I am very vitally interested in that for
2804 the simple reason that if we get socialized medicine we are through and so are the doctors through. We should be working together instead of working apart.

Q. I noticed that when your deposition was taken on May 19th, 1949, after you had finished testifying you made this statement: "I hope I have not disappointed the Government, but that is my position." I would like to ask you whether you don't think that subconsciously since then you have concluded that you had disappointed the Government and you wanted to kind of make it up to them? A. No, I don't think so at all. The fact of disappointing the Government would not make a bit of difference to me, although I think they are disappointed at times. I really think they are, but that doesn't make a bit of difference.

Q. What makes you think they are disappointed? A. I don't know. I just sometimes look at Mr. Marcus' face, and he doesn't seem to—

Q. The smile disappears, or something? A. What?

Q. You mean the smile is disappearing, or something? A. Yes, that is right.

Mr. Jaureguy: All right. That will be all.

Redirect Examination

By Mr. Marcus:

Q. Now Mr. Bechtold, did you read every word in
2805 the transcript of these doctors that testified? Did you read every word in the transcript? A. No, Lord no!

Q. Now, you stated on cross examination that you showed this Exhibit 1881 to the doctors who were at the legislature when that "Little Sherman Act" was being proposed, and none of them denied the facts stated in this letter. Did you show this to any of the doctors named in this document? A. Well, I didn't say I showed it to the doctors. It was there in the committee room. It was read in the committee. I think it was Senator Rand was the one that had it read.

Q. Were any of the doctors mentioned in this document

present at the time it was read? A. What document? You mean—

Q. In the legislature, in the committee. Were any of the doctors mentioned in this document as being present here—that is, at this meeting—present at the time this document was read to the committee? A. When you are referring to the document—

Q. Exhibit 1881. A. Yes. Yes, there were.

Mr. Marcus: Your Honor, I would like to re-offer this 1881 in evidence, then.

The Court: Let me look at it again.

Mr. Jaureguy: I wish to object to it on the ground
2806 it is a hearsay document. First I would like to question the witness. Will you name those who were present in that committee room.

A. See if I understand correctly. You mean some doctors who are mentioned in these transcripts?

Mr. Marcus:

Q. Mentioned in that document. I think Dr. Besson, Leitch, and a couple of others are mentioned in there.

Mr. Jaureguy: There you are. Counsel knew the purpose of my question.

The Witness: Shall I answer it?

The Court: Answer it.

The Witness: Dr. Leitch was in the committee at Salem, Dr. McLean, Dr. Baum—Dr. Baum spoke to the doctors. That is three of them. The attorney was present. I can't recall the rest.

Mr. Marcus:

Q. Did you say Dr. Leitch was present? A. Yes.

Mr. Jaureguy: Yes, when you told him.

Mr. Marcus: I didn't tell him Dr. Leitch—

Mr. Jaureguy: I don't like those tactics, and I want the record to show it.

The Witness: The record will show down at Salem.

Mr. Jaureguy: What is that?

The Witness: The record at Salem will show it.

Mr. Jaureguy: I wasn't referring to you.

The Witness: Oh, excuse me.

2807 Mr. Marcus:

Q. Now, Mr. Jaureguy has been kicking that dead

horse of authorization around for several weeks. I would like to read you something and see whether this represents your understanding of one of the primary functions of this association. I am reading from the "Medical Economics" of November, 1949 at page 58.

Mr. Jaureguy: And I object to it again on the ground that obviously it is a leading question and argumentative.

The Court: Go ahead.

Mr. Marcus: The article is entitled "Speaking of Fees."

"Blue Shield fees.

"One of my patients needed an appendectomy. As a Massachusetts practitioner I brought up the matter of my fee beforehand. I told him the sum I had in mind was $150, and asked if that would be all right. 'Anything you say, Doctor,' was his answer. I went ahead with the operation and billed the patient for that amount. Result, a terrific squawk.

"It seems the patient belonged to our local Blue Cross and Blue Shield plans and thought his membership covered everything. Instead he had to pay $75.00 of my bill out of his own pocket. Though he was of more than average means, he was hopping mad about the way he had been tricked. He never came back to my office.

"That taught me to check each patient's insurance
2808 coverage before considering the fee question settled.

Nowadays I explain exactly what part of my fee will be covered by the prepaid plan and what part won't."

Now in your mind, Mr. Bechtold, does that illustrate one of the functions of the Association? A. Very definitely.

Q. Now we have here Exhibit 2211, which is a letter from the National Hospital Association to Dr. Barkwill, who was one of the witnesses for the defendants, which letter is dated February 14th, 1949:

"We received your statement for services rendered (named patient), an employee of Smith Food Products Company, treated by you in November, 1938."

Then it goes on to state his condition.

"Under the Association's contracts we do not pay for treatment of pre-existing conditions nor for chronic conditions unless an employee has been steadily employed for

a period of six months prior to the time the necessity for treatment develops. As this seems clearly to be a pre-existing condition we have eliminated the charge for this service from your bill and trust you will have no difficulty in collecting from your patient.

"This is one of the cases that plainly demonstrates the necessity for these cases being reported to the Association and authority obtained for treatment at the Associa-
2809 tion's expense prior to the time the service is rendered. By so doing, misunderstandings of this kind can be avoided."

Now was that your understanding of the function of authorization? A. That definitely is our understanding and policy.

Q. Now Mr. Bechtold, there was something said this morning, and I think in part this afternoon, with respect to patients of doctors being brought to Portland. Mr. Jaureguy asked you whether during the '30s that was not what happened, and you said it was a process of evolution, depending upon what facilities there were in certain localities. Mr. Jaureguy asked you specifically with reference to, I believe, St. Helens, Oregon City, and other places within 20 miles of Portland. Now during the noon recess did you have your hospital record books checked? A. Yes.

Q. I am going to inflict a burden on you. I will ask you to look at this book, starting with where these papers are, and state what appears on the checks at the end of the page; that is, what appears on that page with respect to the doctor who treated a patient, what the patient was treated for, and where that treatment was given, and give the date that appears there.

The Witness: The ones that are marked?

Mr. Marcus: Yes.

A. Well, this is under date of November 1937. The
2810 first is—do you want the patient's name?

Q. No, we are trying to avoid the patients' names. A. An employee of a lumber company. The doctor was Dr. Kullberg. It was an operation for appendicitis on November 1st, 1938.

Q. You have got the date there. A. The next is a case by—it is from another lumber company.

Mr. Jaureguy: I thought the fees were coming in too.

Mr. Marcus: No, there is no mention of fees there.

The Witness: An herniotomy on November 29th by Drs. Straumfjord & Boyden.

The next is a case from a logging company—

Q. I don't think you have to give the fact it is a logging company. A. An injured hip by Drs. Straumfjord & Boyden; entered hospital November 29th. Another one by Dr. Kullberg—

Mr. Jaureguy: Is that 1929?

A. November 29th.

Mr. Jaureguy: What year?

A. 1938—Dr. Kullberg, treatment to hand; entered the hospital November 28th. This is the Columbia Hospital in Astoria.

The next one is Dr. Kullberg, a tonsillectomy; entered hospital November 4th, 1937——'38. Wait a minute.

Mr. Marcus:

Q. The date appears at the top there. A. Oh, November, 1937. That is right.

Q. All those dates referred to are in 1937, are
2811 they not?- A. '37; that is right. The next one is a tonsillectomy, Dr. Kullberg, on November 22nd, 1937.

The next is the month of December, Dr. Kullberg, a heart condition; entered hospital on December 7, 1937.

The next is a pneumonia case, Drs. Kulberg & Boyden; entered hospital on December 10th.

The next is a case for Dr. Straumfjord for a tonsillectomy; entered hospital on December 4th.

The next one is an injury to a heel; Dr. Straumfjord; entered hospital on December the 18th.

Do you want me to continue?

Mr. Marcus: Yes, unless your Honor would prefer that these things be read into the record at some other time. There are quite a number, but the purpose is to show that these patients of these particular doctors were being treated in those areas at that period of time. Of course, there are quite a number of entries.

The Court: You can read it in some other time. That would be better.

Mr. Marcus: All right. We will read it in some other time.

Q. Now, I suppose, Mr. Bechtold, in an ideal situation it would not matter to you whether or not doctors accepted tickets, or whether the patient was billed or whether you were billed. But is it or is it not a fact that in the State of Oregon people under prepaid medical care coverage have been conditioned to believe that if they get a ticket
2812 and take it to the doctor they are through as far as the bill is concerned? A. That is true in the group industrial contracts.

Q. And is it or is it not true that when they start getting into trouble because of doctors not accepting tickets, that is a red tape that goes with their being presented with the bill and in some instances having to pay the bill and then get a refund from you, and that that has occasioned the actual loss of accounts? A. It very definitely has.

Q. Now when you were being cross examined by Mr. Jaureguy you said you had a letter, and I hadn't seen it before, and that was in response to a question by Mr. Jaureguy with respect to whether practically it made any difference. Now does this letter indicate an instance where because of the attitude of the doctors an account is being forced to go through red tape which it would not have to go through if the doctors were cooperating? A. Yes, it does.

Q. I wonder if you could read this letter. It is a short letter.

Mr. Jaureguy: I object to that as hearsay.

The Court: You may read it.

The Witness: This is a letter under date of February the 8th, 1950, posted at Warrenton at 6:30 A. M. on February the 9th, and received in our offices this morning, February the 10th:

2813 "Enclosed find a statement from Physicians' & Surgeons' in Astoria for Mrs. Blank of Warrenton. Mrs. Blank is in the employ of Blank Company, and is a paid member of your company. The physicians who treated Mrs. Blank would not accept her membership card; hence, she was told to bring the statement into this office, and we would send it to you for remittance to the doctor. We understand this is the procedure to follow in a case of this kind.

"We trust this is in order, since this is the first sort of test case which we have had since our signing of the contract with your company.

"If we can give you any additional information, kindly let us hear from you."

Mr. Marcus:

Q. Now Mr. Bechtold, I asked you this morning about what happened when firms you had contracts with went bankrupt, and I had the impression that you said you went ahead and took care of the subscribers anyway. Now when Mr. Jaureguy asked you a question this afternoon I think there was some confusion. When you answered Mr. Jaureguy were you or were you not thinking of whether you were paying or your company was rendering this service even though the company had not received payment from the employer? A. You mean even though our company had not been paid?

Q. Well, I myself am confused as to whether when a company goes bankrupt you render service to the subscribers where you already have been paid or whether in some instances you go ahead and render service; that is, pay for service where you have not been paid? A. Well, the fact we can't collect—you are getting me confused. The fact we have not been able to collect our money has at no time deprived any member of any benefits of his contract. Is that what you mean?

2814

Q. Well, perhaps I could put it this way. I am frankly confused. We will start with January of a year. A company goes broke in May. Have they paid you for the premiums for the entire year? Is that customary or isn't it? A. No, they are supposed to pay us monthly, but they don't always pay us monthly.

Q. Let's take that case. The contract is for a year, though, is it not? A. Yes.

Q. So that when they go into bankruptcy in May they actually have not paid you the premiums for a full year? A. Well, they are not supposed to, Mr. Marcus.

Q. I am not interested in whether they are supposed to or not, but they have not paid you; isn't that a fact? A. No, they have not.

Q. And if a subscriber, an employee of that company, gets ill in July, which is after the date of their bankruptcy and is two months after the last date they paid you premiums, do you or do you not remain liable for paying for that patient's medical care? A. Well, I think that we are all confused. In the first place, if a company went bankrupt in May it is hardly likely that they would be operating in July, and under the contract

2815

the employees pay us only when they are working. I am talking now about the group contracts.

Q. Suppose the employee went to the hospital in May and still was being treated in July? A. That is different. He would be entitled to his full service.

Q. Even though you had not been paid the premiums by the company for June and July? A. From the employer. We have accounts now that have not paid us for many months, and still the employees are getting their benefits.

Q. One more question, Mr. Bechtold. I have here Exhibit 2185, which is Schedule of Medical and Surgical Fees of the National Hospital Association, Second Edition. I would like to ask you to kindly look at it and tell us during what period it has been in existence; what period does it cover? A. Since September 1st, 1946.

Mr. Marcus: That is all.

Mr. Jaureguy: That is all.

(Witness excused.)

Mr. Jaureguy: Your Honor, Mr. Marcus kindly said that it would be all right with him if we call a doctor for some short testimony. He has been here waiting.

2816

Dr. Albert L. Severeide was thereupon produced as a witness in behalf of Defendants and, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Jaureguy:

Q. You live in Portland, Doctor? A. I do. I beg your pardon. I moved five miles east of Sandy a couple of weeks ago.

Q. You practice medicine in Portland, Doctor? A. Yes.

Q. How long have you been practicing? A. Since 1928 in Portland.

Q. Tell us where you got your medical education and training? A. College work at Grinnell College, Iowa, and I left there and went to Rush College, University of Chicago, and then I interned first at the Presbyterian Hospital, City of Chicago, and then at Mercy Hospital, City of Chicago, and then I spent time with Paul D. White in Boston and Don Abbott in Chicago, and Roland T. Woodyatt in Chicago after that.

Q. Are you a member of any medical societies? A. Yes, I am a member of the City and County; North Pacific Internists Society.

Q. Oregon State Medical Society? A. Oregon
2817 State, yes.

Q. And the American Medical Association? A. Not the American Medical Association.

Q. You have been a member of those societies how long, County and State? A. Since I came, since 1928.

Q. Are you a member of the staff of the Emanuel Hospital? A. I am.

Q. How long have you been a member of the staff? A. Oh, I think since 1929.

Q. Are you a member of the Executive Committee that makes recommendations on reappointments to the staff? A. I have been.

Q. Do you recall that a couple of years ago Dr. Phillips was not reappointed? A. I do.

Q. Were you on the Executive Committee then? A. I was.

Q. Was his failure to obtain reappointment due to work in the hospital or was it due to something else? A. Would you state that again?

Q. Was his failure to obtain reappointment due to work in the hospital or was it due to something else? A. His failure to be reappointed was due to the type of work he did in the hospital.

2818 Q. And no other reason? A. That is right.

Q. Then do you remember a short period of time Dr. Klingler was not a member of the staff? A.
2819 Yes, I do.

Q. Was his failure to be reappointed due to something that he was doing in connection with the hospital? A. That is right. It was.

Q. And no other reason? A. That is right.

Mr. Jaureguy: You may take the witness.

Cross Examination

By Mr. Marcus:

Q. I was interested in one remark you made. You say you are not a member of the AMA. You mean you are not a Fellow of the AMA? A. I don't believe I am. I don't get the Journal. I pay my dues, but I don't get the Journal, and I am not clear—I do not believe I am a Fel-

low. I think that was $5.00 one time that it came up that I did not pay. I believe that is right.

Q. It is true that, whatever the reason Dr. Phillips did not get his reassignment, he was not told the reason? A. I beg your pardon?

Q. It is true, is it not, that at least, as far as you know, whatever reason Dr. Phillips did not get his reassignment, he was not told that reason? A. That is not true. He was told.

Q. By whom? A. By me, and by other members of the Executive Committee various times when we
2820 reviewed Dr. Phillips' case, which was not once but many times.

Q. Was that at the time he did not get that reinstatement or are you talking about having criticized some work of his prior to that time? A. Most of that was prior, over a period of several years.

Q. As far as you know, that thereafter, as he testified this morning, when he did not get his reassignment he did contact members, I believe, of the Executive Committee? A. Yes.

Q. And they at that time would not give him the reason? A. It is my firm belief Dr. Phillips talked to me, and I am certain I informed Ben the type of work he was doing would no longer be accepted at Emanuel Hospital, and that is the sole reason he was not reappointed.

Q. Are you certain or do you just have an impression? A. I am very certain.

Q. That you at that time talked with him about that after he did not get his reinstatement? A. That is right, after; that is right.

Q. Was that in 1947 then, or prior to 1947? A. I couldn't be too accurate about the date, but it was after he was not re-elected. I was the chief of staff, I think, in 1947 and I was on the "exec." committee, I believe, prior to that; just whatever year it was I can't quite say, but I talked with Ben—

2821 Q. The point I am trying to get,— A. Yes.

Q. —do you recall whether you talked to him prior to the time he was not reinstated, about that time or later? A. Later.

Q. You are certain about that? A. Very certain.

Q. Could you give us the approximate time when you had this talk? A. No. I rather think it would be within a month or two before the failure to receive a note of any

kind that he was re-elected. I think he stated he wrote a letter to the Emanuel Hospital in February. I believe I remember he said that.

Q. That is right. A. So, it would follow within the time of a month or two, in there.

Q. Did he ever receive a reply to that letter? A. I don't know. I have nothing to do with the Emanuel Hospital Board's replying to Dr. Phillips.

Q. You don't know whether he got a reply or not? A. No, I don't.

Mr. Marcus: That is all.

Mr. Jaureguy: That is all.

(Witness excused.)

2822 PLAINTIFF'S REBUTTAL TESTIMONY—Continued

RALPH FURRER, having been previously duly sworn, was recalled as a witness on behalf of Plaintiff, in rebuttal, and was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. You have been a witness here before, have you not? A. Yes, sir.

Q. You were in charge of the Medford office of the National during what period? A. Well, I moved to Medford in December, 1938, and was in charge of the operations for the Association in that area until the summer of 1945.

Q. Dr. Durno was in that area, was he not? A. Yes.

Q. I have here the testimony of Dr. Durno where he says that he quit working for lay-owned hospital associations for these reasons: First, the remuneration which he received was not in accord with his practice and service that he rendered.

To your knowledge, was there anything special about Dr. Durno's practice or service as compared with the other doctors in that area? A. Not to my knowledge.

Q. While you were in charge of that office was it customary for doctors to contact you with respect to
2823 finding out whether or not the National was going to be liable for treating a patient, or were they ac-

customed to contacting Portland? A. Well, by that time, as I recall, and as you recall here, I expressly was sent down there to counteract the boycott that was going on in Medford against the Association at that time. Consequently, a majority of the doctors, frankly, did not even want to talk to me in many instances, so—but I did have the authority—

Q. Those doctors who did cooperate with you, while you were there, did they contact your office or the Portland office with respect to this authorization? A. Well, some of them contacted me and some had previously—this matter of authorization has been taken care of routinely, so they continued that in some instances. In other instances they gradually started to take it up with me.

Q. Dr. Durno said, "It became increasingly evident to me that any major procedure which was carried out or hoped to be carried out in Southern Oregon was urged to come to Portland for that treatment or for the carrying out of that procedure."

While you were there, did you urge that, with respect to any major procedure, the patient be brought to Portland for treatment? A. No, sir. As a matter of fact, most of those cases were unusual. They were requested many times by the doctors themselves, either to
2824 Portland to San Francisco, or they were requested by the patient or the patient's relatives.

Of course, there are times that possibly the doctor would not know that the patient had requested a transfer. In a small town it is rather embarrassing sometimes for a patient to tell his doctor he is dissatisfied with the treatment he is receiving.

Q. Were you acquainted with Dr. Inskeep while you were down there? A. Yes, sir.

Q. This is from Dr. Inskeep's testimony, at Page 1544 of the transcript:

"I quit working for or taking tickets of commercial hospital associations because of interference with my method of treating my patients."

Did you ever interfere with his method of treating patients while you were there?

Mr. Jaureguy: I object to that, your Honor, on the ground that Dr. Inskeep's testimony shows that he did quit taking tickets before Mr. Furrer went there.

Mr. Marcus:

Q. Let me ask you this question: Did Dr. Inskeep quit dealing directly with the hospital association prior to the time you came there, or did he deal with the hospital association while you were there? A. He dealt with us while I was there.

2825 Q. Now, to go on to that question: Did you interfere with his method of treating his patients? A. No, sir; I never interfered with any doctor's methods or practice of treatment of the patients.

Q. Dr. Inskeep said that in 1938 he quit working with the hospital association. Is that true or false, as far as you know? A. That he quit in 1938? He did not quit in 1938.

Q. Do you know whether or not Dr. Inskeep, during the period you were there, was himself a member of the National Hospital Association? A. I know he was a member while I was down there, an elective member of the City of Medford, and I believe he was a member until last year.

Q. There has been some testimony with respect to soliciting accounts in California. Could you tell us what you know about that California business with respect to the Medford area? A. Well, as I recall, in the winter of 1938 the State of California was completing—the State of Oregon was completing the last section of the highway over the top of the Siskiyous to the California state line, and there was a contract there, and then in the spring of 1939 there was a California highway contract, just on the other side of the line. There were some highway contracts down below Redding. There were some in Alturas, the Alturas area. I believe Dunne & Baker, Morrison-Knudsen Com-

2826 pany, and Burke Brothers and some of these companies had—there are probably some others, but they are all primarily Oregon concerns, and sometimes we had business relations with them in other areas, and they were down there. At least I was the closest person that could go to them to either check the first-aid supplies or see that they had equipment or whatever they needed, and also occasionally check on some patient who was in the hospital.

We also had subsequently a trend, which is still going on, of firms moving, in the northern part of the state here and in the southern part of the state. Some pine areas are pretty well depleted and they are moving their operations into California. As a matter of fact, I think the first time that I went to Susanville, California, we had a contractor

there, and at the present time, too, the Fruit Growers Supply Company. We had received a direct inquiry from the company, I believe, asking us about our service. They had heard about it through some of their other people, other employers, who had worked at Klamath Falls or in Oregon somewhere, and I recall that I went down there—my wife was along with me; we happened to be making kind of a pleasure trip out of it, too. I went down there to see what they had in mind and I ran into this desolate blank area. I couldn't figure out where the orchards were or the farmland or something like that. I was looking for fruit warehouses or something, and actually it is a large sawmill.

2827 In that particular instance we were requested both by the doctor and the firm to establish our service in there and subsequently—the Collins Pine operations have a mill, I believe—I know there is one in the Medford area, and there is another large mill they own at Chester, California, and actually there is a transfer of employes back and forth, occasionally, in an official capacity, and there is the Lamm Lumber Company that used to be operated at Deschutes, and also at Rockey Point north of Klamath Falls. They moved their operations to Anderson, California, which is down below Redding. As a matter of fact, first-aid supplies were right at the plant and they were just transferred down into California. It was a matter of going down there and seeing that the doctors were familiar with our service and so forth.

I might say this, that there was no occasion down there for—it is just an entirely different method of operating, a different method of approach of the medical profession in that area in dealing with the Association and consideration of its fees than there was in the State of Oregon around Medford and Klamath Falls, Roseburg and so forth where this boycott was going on.

Q. Mr. Furrer, while you were in Medford did it come to your attention that some doctors dealt with the National Hospital Association on a basis such as to conceal the fact they were dealing with the Hospital Association?

2828 Mr. Jaureguy: Object to that, your Honor, as hearsay and calling for a conclusion of the witness, and not rebuttal.

The Court: Answer.

A. It wasn't hearsay. I was requested by one doctor to make our checks payable to his office nurse so he could

fairly say he was not accepting our checks direct, which we did.

Mr. Marcus: That is all.

Mr. Jaureguy: No cross examination.

(Witness excused.)

2829 Mr. Marcus: Mr. Gustafson. He is our last witness, incidentally, your Honor.

ALVIN W. GUSTAFSON was thereupon produced as a witness on behalf of Plaintiff, in rebuttal, and, being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Marcus:

Q. Are you employed by the National Hospital Association? A. Yes, I am.

Q. At my request did you examine the bills of certain doctors for the last few years, that you dealt with directly? A. I did, yes.

Q. Did you prepare summaries of what those bills and what your payments to the doctors showed? A. I did.

Q. Are those bills contained in these folders which appear on the front of my desk here? A. They are. There is one exception. I think you have a letter there that was in these bills, but I do happen to remember that.

Q. Are those bills available to defendants' counsel for checking? A. They are, as far as I am concerned.

2830 Q. I show you Exhibit 2201 and ask you whether this is a summary made with respect to bills of and payments to Dr. Inskeep for the periods there stated? A. Yes. This is a summary of the bills paid Inskeep for these years.

Q. Looking at this document, will you briefly tell what that shows? What years are covered? A. This shows the years from 1939 to 1940, 1941, 194—it ends with 1942.

Q. Taking the year 1939, what does that show with respect to the number of bills presented, the number of bills paid without any change, the number of bills paid with deductions, and the number of bills paid with increases, and the total amount paid and what was taken off from the total amount paid? A. This shows that the number

of bills presented was 179; the number of bills paid, 174. There were five deductions. The amount of deductions was $4.00. The amount of bills paid was $995, of the entire bills paid.

Q. Take the next year— A. In 1940 there were 237 bills rendered; 218 were paid as rendered; 19 of them were refused; one bill raised, which made a total of $1,125.50 paid. $55.75 was not paid. The increase in the one case was of 50 cents.

In the year '41 there was 180 bills rendered. 174 were paid as rendered. There were four deductions. The
2831 amount of the bills paid was $926.50. The deductions was $5.50.

I made one error here. It is '42 and '43. I said it stopped in '42. It didn't. It stopped in '43.

In the years 1942 and '3, because it didn't take the whole thing, there were 110 cases presented. 67 of them were paid as rendered. 25 of them were reduced. 18 of them were increased. $615 was paid. $59 was reduced. $37.70 was increase, which made a grand total of all the cases in these years of 706 cases bills received; 633 of them were paid as rendered; 53 of them were reduced; 19 of the bills were increased; which made a total of $4,017.55 paid, $124 was deducted, $38.20 was increased. It made a differential of $86.05 to take the increase from the deductions.

Mr. Marcus:

Q. Now, I show you Exhibit 2200 and merely ask whether this is a similar summary made with respect to Dr. Barkwill? A. Yes, it is, sir.

Q. Now, I show you Exhibit 2202 and ask whether this is a similar study made with respect to Dr. Straumfjord. A. Yes.

Q. Now, I show you Exhibit 2203 and ask whether this is a similar study made with respect to Dr. Kullberg? A. Yes, it is.

Mr. Marcus: That is all

2832 Cross Examination

By Mr. Jaureguy:

Q. Why did you happen to look at our exhibits, Defendants' Exhibits 2514 to 2566? A. No, sir, I haven't.

Q. Those cover years back in the 1930's for Dr. Inskeep, and I wonder if somebody asked you not to cover

those years when you made your study. A. We couldn't have, Mr. Jaureguy. Our records when we moved, I believe it was 1947, our paid bills which those all come from stopped at 1939.

Q. Oh, yes, so that you don't have any records? A. We don't have this kind of records prior to 1939; that is right, sir.

Q. How long have you been with the company? A. I was with them for a short time in 1941 and went in the service in '42, and since returning from the service.

Q. And when did you get back from the service? A. October of '45. I began in January, 1946.

Q. So you don't have much personal knowledge of what happened before January of 1946? A. No, I haven't.

Q. Will you be around tomorrow, in town, in case we want to cross-examine you on some of that? A.
2833 Surely.

Mr. Jaureguy: We might not. That will be all, then.

Mr. Marcus: That is all.

(Witness excused.)

Mr. Marcus: Now, your Honor, our rebuttal is through with the exception of this deposition by way of written interrogatories. We would like to send those to Dr. Newsome. Now, we have looked up the law and it is clear that such deposition may be taken without leave of the Court. That is provided for in Rules 31 and 26, and it was expressly so held in an anti-trust case in Detroit, the Society of Independent Producers against somebody or other—United Detroit Theaters—and I might also say, your Honor, that United States vs. Paramount Pictures, with which case I have been associated, we used written interrogatories after the case had gone up to the Supreme Court and had been returned by the Supreme Court to the trial court in order to work out a judgment.

I have got those interrogatories drawn up; at least I have dictated them, and I would expect to get them out by Monday and would be in the hope of getting a reply within a few weeks.

Now, I do have this problem to take up, and that is the timetable with respect to briefs. I would suggest that we have 60 days, that the defendants have 45 days in which

to reply, and we have 15 days in which to—

2834 The Court: It will be the same time we give you. I should think 60 days would be pretty short to work up this record.

Mr. Marcus: It might be, your Honor. With your Honor's permission, if we can't make it—

The Court: I suggest ninety, ninety and thirty. Do you have any views about that, Mr. Jaureguy?

Mr. Jaureguy: In view of what has been said I have no views. I was going to say, which is unnecessary, that on the 13th of March I expect to start in this court in the trial of a case that may take some time, although it may not start then because I heard the Judge was trying an anti-trust case in California and may not be through at that time.

The Court: We can always make necessary adjustments. Do you have any criticism of that basis of time, ninety, ninety and thirty?

Mr. Jaureguy: Well. I didn't think it would take anywhere near that much time.

The Court: All right. Sixty, sixty and fifteen.

Mr. Jaureguy: Now, on that deposition—

Mr. Marcus: May I ask this, your Honor: Can the sixty days run from Monday, because I have a problem of getting the records back to Washington.

The Court: Certainly. How many witnesses will you have tomorrow, Mr. Jaureguy?

2835 Mr. Jaureguy: I have no idea. On that deposition, are you ordering that it will be used?

The Court: He is going to submit interrogatories and you have the privilege of cross-interrogatories.

Mr. Jaureguy: I mean, is your Honor holding it can be used in this case after next week, I mean, put in evidence? I haven't gone into great detail in it. The rules say it can be taken for use at the trial. Now, it would mean that your Honor will be modifying the direction you gave yesterday, or the other day, that this case would end not later than midnight Saturday, and, of course, if they offer that then we will want to offer some evidence in surrebuttal maybe on what is covered in the deposition.

Mr. Marcus: They have the opportunity to have cross-interrogatories. There is no question about that.

Mr. Jaureguy: And also in surrebuttal.

The Court: Put your views in writing on that and then I will rule.

This Exhibit 1881 is admitted subject to the objections that have been stated to it.

Mr. Jaureguy: I have one other matter, if I might, your Honor. In the written statement that I made and filed and gave Counsel a copy of it with respect to the exhibits we are offering in evidence, I inadvertently omitted some that I had dictated to the Reporter that I was offering
2836 them and that is the returns on the subpoenas issued which the Government and I just want to make it clear that the fact that they were left out of the statement doesn't mean that I am waiving that or withdrawing it, and they are offered for the purpose of showing the availability of some 200 witnesses that the Government subpoenaed, the availability.

Mr. Marcus: Mr. Jaureguy is not alone in being forgetful. I forgot to mention to the Court that I hoped by Monday to file our objections to his statement and also file a statement with respect to the exhibits we have offered on rebuttal.

The Court: We will adjourn until tomorrow morning at 10:00 o'clock.

(Further proceedings were had outside the presence of the Court. See Page 2837.)

2837 (The following further proceedings were had out of the presence of the Court:)

Mr. Marcus: I am reading from the hospital records of the National Hospital Association.

Reading from the records for September, 1937, with respect to Drs. Straumfjord & Boyden, treatment for a chest condition at Astoria.

For October, 1937, treatment by Straumfjord & Boyden for pneumonia at the Columbia Hospital, and by Dr. Kullberg, a tonsillectomy.

On the page from which I am reading there are over ten cases recorded as being treated at Columbia Hospital, Astoria.

For August, 1937, Dr. Straumfjord treated a case of tonsillectomy at the Columbia Hospital in Astoria, as did Dr. Kullberg.

During the month of September, 1937, Dr. Straumfjord

treated someone for a cold with medical treatment at the Columbia Hospital, nine days.

On this page it appears that there were over ten cases treated at the Columbia Hospital by doctors.

For May, 1937, it appears that Drs. Cone & Straumfjord performed an appendectomy at the Columbia Hospital, the patient being there for twelve days.

For July, 1937, it appears that Dr. Straumfjord
2838 performed an appendectomy at the Columbia Hospital where the National Hospital Association subscriber was at the hospital eight days.

On this page there appears to be more than 20 cases of persons treated at the Columbia Hospital during the months of May and July of 1937 who were National Hospital Association subscribers.

For the month of March, 1937, it appears that Dr. Kullberg treated a National Hospital Association patient for a fractured tibia at the Columbia Hospital, the patient being there one day. Dr. Kullberg also treated a National Hospital Association patient for abdominal distress, the patient being in the hospital eight days; and he also performed a tonsillectomy on a National Hospital Association subscriber at the Columbia Hospital.

During April, 1937, Drs. Cone & Straumfjord treated a National Hospital Association patient at the Columbia Hospital, Astoria, for hypertension with cardiac decompensation, and also treated a case of mumps at the Columbia Hospital with respect to a National Hospital Association patient, the patient being there ten days.

It appears that for the months of March, 1937, and April, 1937, more than twenty cases of National Hospital Association patients were treated at the Columbia Hospital, Astoria, Oregon.

2839 During February, 1937, Drs. Cone & Straumfjord treated a National Hospital Association subscriber at Columbia Hospital for anal fissure and hemorrhoids. During the same month Drs. Cone & Straumfjord treated a National Hospital Association subscriber at the Columbia Hospital for hematuria.

Drs. Cone & Straumfjord treated three patients, National Hospital Association subscribers, during February, 1937, at the Columbia Hospital, Astoria.

For the months of January and February, 1937, it appears that more than ten National Hospital Association patients were treated by doctors at the Columbia Hospital, Astoria.

During the month of January, 1937, Drs. Cone & Straumfjord treated a National Hospital Association patient at the Columbia Hospital, Astoria, for influenza, and another National Hospital Association subscriber for probable hypernephroma, pernicious anemia, the patient being in the hospital 25 days.

It appears that in November, 1936, December, 1936, and January, 1937, more than 20 National Hospital Association subscribers were treated by doctors at the Columbia Hospital, Astoria.

In October, 1936, it appears that more than 20 National Hospital Association patients were treated at the Columbia Hospital, Astoria, by doctors.

In July, 1936, Drs. Cone & Straumfjord treated a
2840 National Hospital Association subscriber for a rectal polyp at the Columbia Hospital, Astoria, the patient being there eight days.

It appears that during July, 1936, and August, 1936, more than 20 National Hospital Association subscribers were treated by doctors at the Columbia Hospital, Astoria.

It appears that in June, 1936, Dr. Straumfjord treated a National Hospital Association subscriber for influenza at the Columbia Hospital, and that for the months of May, June and July more than 20 National Hospital Association subscribers were treated by doctors at the Columbia Hospital, Astoria.

For the months of March, 1936, and April, 1936, it appears that more than 20 National Hospital Association subscribers were treated at the Columbia Hospital, Astoria, by doctors.

During February, 1936, Dr. Straumfjord treated a National Hospital Association subscriber for a heart condition at the Columbia Hospital, the patient being there six days.

During the months of January, 1936, and February, 1936, more than 15 National Hospital Association subscribers were treated by doctors in that area at the Columbia Hospital, Astoria.

In November, 1935, Dr. Straumfjord treated a National Hospital Association subscriber for pneumonia at the Columbia Hospital, Astoria, and during the months of
2841 October, November and December, 1935, more than 40 National Hospital Association subscribers were treated at the Columbia Hospital, Astoria, by doctors there.

In August, 1935, Dr. Straumfjord treated a National Hospital Association subscriber for an infected abrasion

of the right leg at the Columbia Hospital, Astoria, Oregon, the patient being there six days.

During July, August and October of 1935 more than 20 National Hospital Association subscribers were treated at the Columbia Hospital, Astoria, by doctors there.

During April, May and June, 1935, more than 20 National Hospital Association subscribers were treated at the Columbia Hospital, Astoria, by doctors, including Drs. Straumfjord, Kullberg and Fowler.

Mr. Jaureguy: Anybody else?

Mr. Marcus: Yes, Vinson.

Mr. Jaureguy: Vinson, one.

Mr. Marcus: During November, 1937, Dr. Durno treated a National Hospital Association subscriber for hernia at the Community Hospital, Medford, the patient being at the hospital 16 days.

During November and December, 1937, more than 15 National Hospital Association subscribers were treated at that hospital by doctors in that area.

In October, 1937, Dr. Durno treated a National
2842 Hospital Association subscriber for a stomach disorder at the Community Hospital, Medford, and five National Hospital Association subscribers were treated at the Community Hospital at Medford by doctors.

I notice that in October, 1937, more than 15 hospital association subscribers were treated at the Community Hospital by doctors there.

During August and September, 1937, more than 20 National Hospital Association subscribers were treated at the Community Hospital, Medford, by doctors, including Dr. Durno.

Mr. Jaureguy: What did Dr. Durno do?

Mr. Marcus: He also did a tonsillectomy in August.

Mr. Jaureguy: In August?

Mr. Marcus: Yes. During April, May, June and July, 1937, more than 20 National Hospital Association subscribers were treated by doctors in Medford at the Community Hospital, Medford, including Dr. Durno, who performed an appendectomy in April, 1937, the patient being in the hospital 13 days, an old arm injury, open bone work, with the patient being in the hospital 16 days.

In January, February and March of 1937 more than 15 National Hospital Asociation subscribers were treated at the Community Hospital, Medford, by doctors, including Drs. Inskeep and Durno. Dr. Durno treated one patient

for a tubercular ependymitis, being in the hospital
2843 five days.

During the months of November and December of 1936 ten National Hospital Association subscribers were treated by doctors at the Community Hospital at Medford, including Dr. Durno, who treated a National Hospital Association subscriber for an infected hand, the patient being in the hospital two days.

For September and October, 1936, more than 20 National Hospital Association subscribers were treated at the Community Hospital, Medford, by doctors, including Dr. Durno, who treated one National Hospital Association subscriber for a fractured arm, the patient being in the hospital 27 days, and also another National Hospital Association subscriber for an enterostomy, the patient being in the hospital 21 days.

During May, June, July and August, 1936, more than 20 National Hospital subscribers were treated at the Community Hospital in Medford by doctors, including Dr. Durno.

During January, February, March and April, 1936, more than 15 National Hospital Association subscribers were treated by doctors at the Community Hospital, Medford, including Dr. Inskeep, for a fractured right transverse process of the fifth lumbar vertebra and fracture of the pelvis extending through the right acetabulum, the patient being in the hospital 43 days.

For September, October and November, 1935, more than
20 National Hospital Association subscribers were
2844 treated at the Community Hospital at Medford by doctors in that area, including Dr. Durno, Dr. Durno treating one National Hospital Association subscriber for a sprained ankle and threatened pneumonia, the patient being in the hospital 36 days; and another National Hospital Association subscriber for hernia, the patient being in the hospital 14 days.

During the month of December, 1937, more than 30 National Hospital Association subscribers were treated at various hospitals in Oregon, Washington and Idaho. Dr. Waltz treated a National Hospital Association subscriber during that month for cold and asthma at Forest Grove, and Dr. Bump performed an appendectomy at Newberg, Oregon, the patient being hospitalized for seven days.

During this month Dr. Noble performed a tonsillectomy
on a National Hospital Association subscriber at
2845 McMinnville.

During the months of November and October,

1937, more than 40 National Hospital Association subscribers were treated in various places in Oregon and Washington, and one National Hospital Association subscriber being treated at Salt Lake City and another at Seattle, Washington. Dr. Kines treated a National Hospital Association subscriber for an infected leg at Forest Grove, with the patient being hospitalized for 33 days.

The last few items I have been reading form a part of the record entitled "Miscellaneous."

In October, 1937, Dr. Kines treated a National Hospital Association subscriber for torn ligaments of the left ankle at Forest Grove, the patient being there two days.

During October of 1937 Dr. Waltz treated a National Hospital Association subscriber for influenza at Forest Grove, and Dr. Waltz during that month treated a National Hospital Association subscriber for an abscessed wrist at Forest Grove, the patient being hospitalized for five days; and another National Hospital Association subscriber for medial pseudo lobar pneumonia, the patient being hospitalized twelve days.

During September, 1937, Dr. Noble treated a National Hospital Association subscriber for an injured eye, contusion, the patient being hospitalized two days at McMinnville.

Dr. Waltz during that same month treated a National Hospital Association subscriber for furunculosis at Forest Grove, the patient being hospitalized for five days.

2846 During August, 1937, Drs. Noble and Russell treated a National Hospital Association subscriber for an infected throat at McMinnville, the patient being hospitalized four days.

During that same month Dr. Noble treated a National Hospital Association subscriber for a boil at McMinnville, the patient being hospitalized for three days.

In August of 1937 Dr. Bump treated a National Hospital Association subscriber for an acute appendix at Newberg, the patient being hospitalized for nine days.

Dr. Waltz treated a National Hospital Association subscriber for the flu at Forest Grove, and Dr. Waltz also treated another National Hospital Association subscriber for an abscess on the arm at Forest Grove.

In July, 1937, Dr. Kines treated a patient, a National Hospital Association subscriber, for tonsilitis at Forest Grove. Dr. Waltz treated a National Hospital Association subscriber during that month for a tonsil abscess, open, with local anesthetic at Forest Grove.

In June of 1937 Dr. Noble treated a National Hospital Association subscriber for a throat infection at McMinnville, the patient being hospitalized four days.

Dr. Bump treated a National Hospital Association subscriber for a fractured collarbone at Newberg, the patient being hospitalized five days.

Dr. Waltz in July, 1937, performed a tonsillectomy
2847 on a National Hospital Association subscriber at Forest Grove, and treated another National Hospital Association subscriber for an infected hand, also at Forest Grove.

Dr. Waltz in June, 1937, treated another National Hospital Association subscriber for an infected left hand, also at Forest Grove, and Dr. Waltz in June, 1937, treated a National Hospital Association subscriber for an injured leg, also at Forest Grove.

Dr. Bump treated a National Hospital Association subscriber for an infected leg at Newberg, the patient being hospitalized six days.

I have picked out certain names from my list of names, both of patients and doctors, which appear on the various pages of these records from which I am reading.

In April, 1937, Dr. Waltz treated a National Hospital Association subscriber for acute spastic colitis, the patient being hospitalized two days.

All the cases that I have enumerated thus far are cases which were hospitalized according to the records of the National Hospital Association.

In February of 1937 Dr. Noble of McMinnville treated a National Hospital Association subscriber for swollen glands at McMinnville, the patient being hospitalized for seven days.

Dr. Murch Russell in February, 1937, treated a National Hospital Association subscriber for appendicitis at
2848 McMinnville.

In January, 1937, Dr. Noble treated a National Hospital Association subscriber for flu at McMinnville, and Dr. Barendrick took care of a fractured leg for a National Hospital Association subscriber at McMinnville.

Dr. Hester treated a National Hospital Association subscriber in January, 1937, for concussion and dizziness at Newberg, the patient being hospitalized nineteen days.

In September, 1936, Dr. Pitman treated a National Hospital Association subscriber for a kidney stone at Hillsboro.

In August, 1936, Dr. Noble treated a National Hospital

Association subscriber for a bruised left arm at McMinnville, and in July, 1936, Dr. Noble treated a National Hospital Association subscriber for an injured eye at McMinnville, the patient being hospitalized four days.

Dr. Waltz in June, 1936, treated a National Hospital Association subscriber for a submucous resection at Seattle, Washington.

In May, 1936, Dr. Pitman treated a National Hospital Association subscriber for a rectal fistula at Hillsboro, Oregon, the patient being hospitalized twelve days at the Jones Hospital.

In April, 1936, Dr. Pitman treated a National Hospital Association subscriber for sinus infection at the Jones Hospital, Hillsboro, Oregon, the patient being hospitalized seven days.

In January, 1936, Dr. Pitman treated a National
2849 Hospital Association subscriber for gunshot in the right thigh at the Jones Hospital, Hillsboro, Oregon, with the patient being hospitalized for eighteen days.

Dr. Waltz in January of 1936 treated another National Hospital Association subscriber for gunshot wound in the arm at the Jones Hospital, Hillsboro, Oregon, the patient being hospitalized eighteen days.

In November, 1935, Dr. Pitman treated a National Hospital Association subscriber for an infected hand at the Jones Hospital, Hillsboro, Oregon, the patient being hospitalized five days.

In August, 1935, Dr. Rugh treated a National Hospital Association subscriber for hypertension at the Klamath Valley Hospital, Klamath Falls; and Dr. Stearns treated a National Hospital Association subscriber for sinusitis and tonsilitis at the Klamath Valley Hospital, Klamath Falls.

Dr. Waltz in July, 1935, treated a National Hospital Association subscriber for blood poisoning of the left ankle at the Forest Grove Hospital, Forest Grove.

Dr. Waltz in December, 1934, treated a National Hospital Association subscriber for brain concussion at the Guymon Hospital at Forest Grove, Oregon. In the same month he treated another National Hospital Association subscriber for septic sore throat with abdominal cramps at that same hospital at Forest Grove, the patient being hospitalized nine days.

2850 In September, 1934, Dr. Waltz treated a National Hospital Association subscriber for pain in the right side at that same hospital at Forest Grove. And Dr.

Waltz in that same month treated another National Hospital Association subscriber at the same hospital for a sacroiliac sprain. Also there was another National Hospital Association subscriber treated during the same month for contusions of the right foot at the same hospital at Forest Grove. And in November, 1934, he treated a National Hospital Association subscriber for a fractured right lower leg at the same hospital at Forest Grove.

In September, 1934, Dr. Waltz treated a National Hospital Association subscriber for a pierced upper lip at the same hospital at Forest Grove.

In July, 1934, Drs. McLean and Steele treated a National Hospital Association subscriber for lacerations on the chin and body bruises. The doctors treated the patient referred to at the Oregon City Hospital in Oregon City.

In January, 1935, the same two doctors treated a National Hospital Association subscriber for rectal abscess at the same hospital, the patient being hospitalized for eight days.

I want to state that these have been examples taken from a number of the National Hospital Association's subscribers listed as having been treated at various cities in Oregon at various times between 1934 and 1937, and
2851 at various hospitals at these towns, and by the doctors named in the records. The doctors referred to are some of the doctors listed in these records.

(Thereupon, at 5:00 o'clock P.M., an adjournment was taken until 10:00 o'clock A.M., the following day, February 11, 1950.)

2852 Court reconvened at 10:50 o'clock A.M., Saturday, February 11, 1950.

DEFENDANTS' SURREBUTTAL TESTIMONY

Mr. Jaureguy: If your Honor please, I have from Emanuel Hospital two applications for appointment to the medical staff of Marion G. Klingler, together with accompanying letters from doctors, and I would like to offer them in evidence. I would like, after I offer them in evidence, and at some future time to withdraw this exhibit and have it photostated and substitute photostatic copies.

Mr. Marcus: I have not seen this. If you have a witness, I wonder if you could put him on.

Mr. Jaureguy: Yes. Mr. Foley, please.

CLYDE C. FOLEY, having previously been duly sworn, was thereupon recalled as a witness on behalf of Defendants, in surrebuttal, and was examined and testified as follows:

Direct Examination

By Mr. Jaureguy:

Q. Mr. Foley, could you tell us whether Dr. Raaf is or has been a member of either the Council of the State Medical Society or the Multnomah County Medical Society?

2853 A. He has never been a member of the State Society Council. He has been a member of the County Council.

Q. When? A. 1941, 1942 and 1943. He was Secretary, and the Secretary of the Society is a member of the Council.

Q. Would you answer the same question with respect to Dr. John Trommald. A. Dr. John Trommald has never been a member of the State Society Council. He has been a member of the County Society Council, 1948 and 1949; he was re-elected and is serving in 1950 and will serve in 1951, a two-year term.

Q. Mr. Foley, have you made an investigation to determine when hospitals were first established in some of the smaller cities in Oregon? A. Yes.

Q. Would you give us the result of that.

Mr. Marcus. I object, your Honor. After all, this is the sort of thing which must be in a document, and we would like to see the document and not have this gentleman relate on some undisclosed basis as to when hospitals were formed in various localities.

Mr. Jaureguy:

Q. Do you have any documents?

Mr. Marcus: I object, unless there is a foundation laid to determine what this witness' knowledge is based upon.

Mr. Jaureguy:

Q. First, before you give us an answer, tell us

2854 what your knowledge is based upon? A. The usual source for information about the date of organization of hospitals is the American Medical Directory, the last edition.

Mr. Marcus: I object to the question, your Honor, on the ground that the best evidence is the American Medical Directory.

The Court: Is that available?

Mr. Jaureguy: Is that available? A. Yes, it is available.

Q. Where is it? A. I have a copy.

Q. Here? A. Not here.

Q. Do you have anything else here that gives this information? A. Not the dates.

Q. Did you get the information you are going to give us come from the American Medical Directory? A. Yes.

Q. Give us that information, please.

Mr. Marcus: I object, your Honor.

The Court: Overruled. I take judicial knowledge of what is in the American Medical Directory.

A. The American Medical Directory, 1942 edition, gives the following information respecting the hospitals named:

Albany General Hospital, in Oregon, was estab-
2855 lished in 1924.

St. Mary's Hospital in Astoria was organized in 1880. Columbia Hospital, also in Astoria, was organized in 1927.

St. Charles Hospital in Bend was organized in 1917.

Corvallis General Hospital in Corvallis, in 1921.

Dallas Hospital, in Dallas, was established in 1914.

Mr. Jaureguy:

Q. That is Dallas? A. Dallas.

Jones Hospital in Hillsboro, in 1925.

The Hood River Hospital in Hood River, 1905.

Lebanon General Hospital in Lebanon, in 1918.

McMinnville General Hospital, in 1937; and the McMinnville Hospital, which is another hospital, in 1931.

Willamette Hospital in Newberg, in 1936.

Oregon City Hospital, in Oregon City, in 1912.

Hutchison General Hospital in Oregon City, in 1926.

St. Helens General Hospital in St. Helens, 1925.

Salem Deaconess Hospital in Salem, in 1916.

Salem General Hospital, also in Salem, in 1896.

The Silverton General Hospital in Silverton, in 1914.

Mid-Columbia Hospital in The Dalles, 1924.

The Dalles General Hospital in The Dalles, 1902.

Mr. Jaureguy: You may take the witness.

Mr. Marcus: I have no questions.

(Witness excused.)

2856 Mr. Marcus: In respect to this document which defendants have offered, our only objection would be that it deals with an application by Dr. Klingler this past year and contains letters written by various doctors with respect to Dr. Klingler, also in the past year. We do object both on the ground that it is irrelevant and on the ground of its being self-serving.

The Court: Admitted.

(Application for appointment to medical staff, Emanuel Hospital, of Marion V. Klingler, M.D., and attached papers was thereupon received in evidence and marked Defendants' Exhibit No. 2767.)

Mr. Jaureguy: That is all we have, your Honor.

Mr. Marcus: Yesterday I forgot to offer one exhibit, which is a bulletin of the Multnomah Medical Service Bureau of April 30, 1940. I would like to offer it.

Mr. Jaureguy: I am rather certain that is what Mr. Bechtold brought. I am rather certain that is already in evidence.

Mr. Marcus: No, it is not.

The Court: Admitted.

(Copy of Bulletin No. 31, Multnomah Medical Service Bureau, April 30, 1940, was thereupon received in evidence and marked Plaintiff's Exhibit No. 2227.)

Mr. Marcus: Your Honor, I have prepared a memorandum supporting our use of written interroga-
2857 tories to Col. Samuel J. Newsome. I would like to ask if defendants' counsel is willing to consent to this compromise; if he would be willing to consent that if Col. Newsome were called here he would testify he had not received notice that he was admitted to membership in the Society. Then I would waive the other questions I have drafted for Col. Newsome. Otherwise we would like—

Mr. Jaureguy: You mean, if we so stipulate you would withdraw taking your deposition?

Mr. Marcus: Yes.

Mr. Jaureguy: We will stipulate on one condition, and that is that if we make that admission we will wish to present evidence that he was elected to the Society in 1947,

paid his dues. The evidence will be that he paid a part of his dues and asked for permission to delay payment of the balance, and then he paid the balance, was elected to membership; his name was sent in to the American Medical Association as a member.

Our evidence will be that the regular practice is to send a form letter, and that form letter was sent to all of them. That is as close as we can come on that.

Then, we hope—I can't promise this, but we are getting a copy of an application which he filed in San Diego, and, when we get that, if it states, as it may state, that he was at that time a member of the Multnomah County Medical Society, we would like to offer that in evidence.

2858 Mr. Marcus: I can't stipulate on that. We might as well—

Mr. Jaureguy: If you can stipulate to the rest, then when the document comes we will reserve the right to offer it and the Court will decide then and you can state your objections to it.

Mr. Marcus: Well, I mean if you are going to offer that I think you had better do it by way of cross-interrogatories, or whatever way you wish to proceed. I can't just accept your statement on it.

The Court: Gentlemen, proceed with the deposition and I will hold the trial open until the date of the argument, at which time I will hear further representations from both sides as to the need for further testimony.

Mr. Jaureguy: I take it you will hold the trial open merely for that purpose?

The Court: That is correct. Adjourn.

(Thereupon, at 11:05 o'clock A.M., Saturday, February 11, 1950, the Court adjourned.)

Reporters' Certif.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

Civil No. 4255

UNITED STATES OF AMERICA,

Plaintiff,

—vs.—

OREGON STATE MEDICAL SOCIETY, *et al.,*

Defendants.

We, Ira G. Holcomb, John S. Beckwith and Glenn G. Foster, Official Court Reporters of the above-entitled Court, do hereby certify that on, to-wit, October 18, 1949, to and including November 10, 1949, and January 23, 1950, to and including February 11, 1950, we reported in shorthand the testimony and proceedings in this cause and thereafter caused our shorthand notes to be reduced to typewriting; and that the foregoing transcript, consisting of Pages 1 to 2881, inclusive, (with index), constitutes a full, complete and accurate transcript of our respective shorthand notes, so taken as aforesaid, and of the whole thereof.

Dated at Portland, Oregon, this 11th day of February, 1950.

.....
Ira G. Holcomb

(Signed) JOHN S. BECKWITH
John S. Beckwith

(Signed) GLENN G. FOSTER
Glenn G. Foster

Official Court Reporters

2887 IN UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

[TITLE OMITTED]

DEPOSITION

of

CLYDE C. FOLEY,

Taken as a witness on behalf of the Plaintiff, United States of America

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BE IT REMEMBERED That, pursuant to the oral stipulation hereinafter set out the deposition of Clyde C. Foley was taken on behalf of the Plaintiff, United States of America, before Ira C. Holcomb, a Notary Public for Oregon, on the 15th day of June, A. D. 1949, beginning at 10:30 o'clock A. M., at Room 614, United States Court House, in the City of Portland, County of Multnomah, State of Oregon.

2888 APPEARANCES:

Mr. G. G. Galassi, Attorney, Anti-Trust Division, Department of Justice, appearing on behalf of Plaintiff.

Mr. Nicholas Jaureguy (Cake, Jaureguy & Tooze) and Mr. John J. Coughlin (Griffith, Peck, Phillips & Coughlin), appearing on behalf of Defendants.

STIPULATION:

(It is stipulated and agreed by and between the attorneys for the respective parties that the deposition of the above-named witness may be taken on behalf of Plaintiff, United States of America, at Room 614 United States Court House, in the City of Portland, County of Multnomah, State of Oregon, on Wednesday, the 15th day of June, A. D. 1949, beginning at 10:30 o'clock A. M., before Ira G. Holcomb, a Notary Public for Oregon.

(It is further stipulated that the deposition, when transcribed, may be used on the trial of said cause as by law provided; that all questions as to notice of the time and

place of taking the same are waived; and that all objections as to the form of the questions are waived unless objected to at the time the questions are asked; and that all objections as to materiality, relevancy and competency of the testimony are reserved to the parties until the time of trial.

(It is further stipulated by the attorneys for the respective parties that the reading over of the testi-
2889 mony to or by the witness and the signing thereof are expressly waived.)

CLYDE C. FOLEY was thereupon produced as a witness on behalf of Plaintiff, United States of America, and, being first duly sworn to testify the truth, the whole truth and nothing but the truth, was examined and testified as follows:

Direct Examination

By Mr. Galassi:

Q. Your name. A. Clyde C. Foley.

Q. Your residence? A. Lafayette Apartments.

Q. Portland? A. Portland, yes.

Q. What is your position with the Oregon State Medical Society? A. Executive Secretary.

Q. How long have you been so employed? A. Since 1926.

Q. You have seen the subpoena issued to the Society by the plaintiff? A. By that I presume you refer to the last subpoena?

Q. The subpoena duces tecum? A. Yes, I have seen it.

Q. Are you familiar with its contents? A. Yes,
2890 I think so.

Q. Do you have charge of the files of the Society? A. Yes.

Q. Are you familiar with the manner in which the files are set up? A. Yes.

Q. Do you, yourself, do the actual filing? A. No, that is done by a stenographer.

Q. Could you give us the name of the person whose actual duties are to do the filing and to maintain the files of the Society? A. Miss Coburn does that now. Of course, she has not been with us very long.

Q. What is her position? A. She is a stenographer in the office.

Q. Are there any other persons connected with the Society who are familiar with the filing system and whose duties include any filing? A. Well, we have an assistant executive secretary. We haven't had him for very long. Of course, he works with me and our duties overlap.

Q. He is assistant executive secretary? A. Assistant executive secretary; that is right.

Q. How long has he been there? A. I think since November, 1947.

Q. Has there been anyone else since 1936 who has occupied that position as assistant executive secretary? A. No.

2891

Q. Where is the office of the Society? A. Medical-Dental Building.

Q. Are its records and files kept there? A. Yes.

Q. Could you describe the manner in which the files are set up? A. Well, in 1937 we had Remington-Rand set up a subject file, a subject filing system, and our files were brought up to date at that time. Since that time we have not used that system much, because it has been very difficult to get anybody with sufficient knowledge about filing, so our filing has been very poorly done since that time.

Q. That was in 1947? A. 1937.

Q. 1937? A. Yes.

Q. But basically, it is set up on a topical basis? A. On a topical basis, but it has not been kept up on that basis.

Q. When that was initially set up that way, were you filing chronologically, within different topics? A. Filing by topics.

Q. Assuming you actually had a number of files and a mass of documents within a particular given topic, how would those be filed? A. All the material on a given topic can be put in a single file. It is not in there necessarily chronologically.

2892

Q. Does the Society have a file index of any kind? A. There was a file index set up in 1937, but, as I say, it has not been kept up.

Q. Are the correspondence files maintained separately from the files containing minutes of the meetings of the Society? A. Yes.

Q. Is incoming correspondence kept separately from outgoing correspondence? A. No.

Q. If the President or other officer of the Society were to ask you for a specific communication, say, from the Jackson County Medical Society, exactly how would you

go about procuring it? A. If it occurred since 1937, I would have to search through our pile of records. Most of those are in boxes back in the back room.

Q. You do that yourself——You would do that yourself, or would you ask someone? A. Yes, I would do it myself.

Q. If it were prior to 1937, how would you go about it?

2893 A. I would still do it myself, but it would be more simple.

Q. Could you elaborate on that? How do you mean, it would be more simple? A. Well, as I have explained, since 1937 our files are just what you might call a vertical system of filing; they are put in boxes and put away. They are not incorporated into our subject files.

Q. Assuming it were since 1937, would you have to know any more than that the particular document was from the Jackson County Society, or would you have to know just what the subject matter was, or just what steps would you take to get a given document that was requested? A. I would go through this whole mass of material.

Q. The whole mass of stuff filed there? A. Yes.

Q. You have no particular system? A. That is right.

Q. Just hit-or-miss and when you would come upon it you would know that is the right one? A. I would have to do it myself, you see.

Q. I call your attention to a document I am going to hand you. It is a photostatic copy of the minutes of the regular monthly meeting of the Council of the Oregon State Medical Society, held at Portland, Oregon, February 10, 1940. This document consists of eleven pages. The original was obtained from you by one of the FBI agents

2894 and photostated. This photostat has been marked on the back with plaintiff's identification number G-512.

The last paragraph on Page 2 of these minutes reads as follows: "President Hunt called for the report of the Executive Committee. The Executive Secretary reported the following actions of the committee," and then it continues at the bottom of Page 7 as follows: "3. Voted to adopt the following outline of duties for the Assistant to the Executive Secretary: (1) Establish files under proper subject classifications so that requests for information may be promptly complied with."

Do you recall the action referred to therein which I have just read? A. Yes; then he was called Assistant to the Executive Secretary. I had forgotten about it when

you asked that question before. He was employed specifically to function with the Bureau of Medical Economics, and that is what is referred to there. He was specializing in that; he spent his time entirely in that work.

Q. But the action referred to or voted upon, rather, applies to the files and the work of the Society? A. No, I think not. This had to do with the files of the Bureau, his own activities, you see.

Q. Is there any mention therein referring specifically to the Bureau of Medical Economics? A. No.

2895 Q. If there is, I failed to notice it. A. No, but if you had other minutes when this man was employed, that would bring that out, because I think this matter relating to his duties has to do with his activities in connection with the Bureau of Medical Economics, all this subject matter contained in these various items from 1 to 6.

Q. Then, am I correct in my understanding that the files of the Society generally have not been so maintained? A. That is right.

Q. Since this date? A. When he was employed; he has had his own files for that particular thing, and those matters are still in the files, whatever he collected.

Q. What was his name? A. John Caughill.

Q. When was he employed? A. I can't give you the exact date, but it was sometime in 1939.

Q. February 10, 1940? A. Well, it was sometime, I am quite sure, in 1939. I can't give you the exact date. I can get that date, of course.

Q. When, approximately, did he leave? A. In 1942.

Q. You say he set up files in connection with his own particular duties? A. Yes.

2896 Q. With respect to the Bureau of Medical Economics? A. That is right.

Q. Were those files set up according to the subject classifications mentioned there? A. No. There wasn't any relationship between them. He set them up based on the material that he was working with.

Q. Have those files been maintained after that for your use, or have they been since that time? A. No, because when he left the Bureau had ceased to function; the Bureau had ceased its activities.

Q. Do you have any files in which to put any documents relating particularly to Prepaid Medical Care plans? A. Yes, we have files in this filing system I spoke about,

set up in 1937; there are a number of subject indexes which relate to Prepaid Medical Care.

Q. Could you give us some of those headings? A. Well, I don't know as I can give you the exact headings.

Q. If you could name two or three or more from your recollection, it would give us an idea of the type of subject headings used. A. One under the head of Compulsory Health Insurance, which is a particular subject. That would be one.

Q. Would there be one under Contract Practice of Medicine? A. Yes, there would be.

2897 Q. Medical Ethics? A. Yes, I think so.

Q. After OPS was set up, would there be one under OPS or any of the other defendants in this case, defendant societies? A. No.

Q. I will show you Page 30 of the transcript of proceedings had before the Court on May 27, 1949, and I will ask you to read the portion marked in pencil there.

A. "The Court: What you want is the right to look at all the correspondence.

"Mr. Marcus: I was going to suggest that.

"The Court: That is what you want, the right to look at the correspondence. That would be some job.

"Mr. Marcus: That is why it might be much easier—

"The Court: If I just went in there and looked through the correspondence in my files, the accumulation of business in the past twelve years, I would have quite a job. I would hate to go in there myself and go through it.

"Mr. Marcus: I don't know how these files are kept. I assume in handling correspondence of this sort they have the files labeled.

"The Court: Why don't you go down and take a look at it and see for yourself? Go down with Mr. Jaureguy and take a look."

2898 Mr. Galassi: Thank you. I will ask the Reporter to incorporate in this transcript the portion so read.

Q. After this deposition is over, may I go down with you to your office and see how your files are maintained? A. Whatever our legal counsel tells us to do, we will do, of course.

Mr. Galassi: Is that permissible?

Mr. Jaureguy: It is not my deposition. Things like that will be answered in court.

Mr. Galassi: You are not at liberty to answer on your own volition here?

Mr. Jaureguy: He answered of his own volition, saying it was up to his counsel.

Mr. Galassi: You are his counsel, aren't you?

Mr. Jaureguy: That is correct.

Mr. Galassi: I asked you if it was permissible.

Mr. Jaureguy: And I said it is not my deposition; things of that type will be taken up in court, just as we did in connection with the trascript you are reading from, and just as we have done since then.

Mr. Galassi:

Q. Mr. Foley, do you furnish annual membership lists of the OSMS to the American Medical Association? A. We do not furnish annual lists. We furnish lists monthly.

Q. Monthly? A. Monthly. By that I mean to say
2899 it is the report of new members and members dropped and so forth.

Q. Could we have copies of such lists for the period covered by the complaint in this suit? A. I am not sure whether copies are available. The American Medical Association has a regular printed report form which we send in. They supply the forms. I am not sure whether duplicates are kept of all those; I doubt it.

Q. Are such membership lists available, such as you do have in your office? A. Yes, we keep our membership on a Kardex file.

Q. Do you keep carbons of these forms that are sent in? A. No, we don't. On occasions, when the girl makes these up from the cash book, for our own records, she sometimes has made copies just so she would know what she had sent in and what she had not, but that has not always been so.

Q. Taking up the subpoena duces tecum addressed to the Oregon State Medical Society, I shall read the first item requested: "1. Copies of all constitutions and bylaws and amendments thereto in effect during the period January 1, 1936, to May 1, 1949." You gave the FBI agent a copy of the constitution and bylaws of the Oregon State Medical Society, did you not? A. Yes.

Q. Is that a copy of the constitution and bylaws in effect during the entire period 1936 to May 1, 1949? A. Doesn't it bear a date?

2900 Q. Yes. I show you Government's Pre-Trial Exhibit No. 4. A. Well, this apparently has been

brought up to date because it has the original date of adoption and then the amendments as of October, 1946, to the bylaws.

Q. That is the copy you gave the FBI agent? A. Yes, that is right. I would assume from this that it is up-to-date.

Q. That is, to the best of your knowledge, an authentic copy of the up-to-date constitution and bylaws? A. Yes, I think so.

Q. I now call your attention to Pages 108 to 110, as marked, of the transcript of proceedings in this case dated May 25, 1949. Will you please read the portions marked on those pages? A. "Mr. Marcus: The next document, marked Exhibit No. 4, is entitled 'Oregon State Medical Society, Constitution and Bylaws, adopted September 9, 1939; Bylaws amended as of October, 1946.'

"Mr. Jaureguy: Prior to the trial the defendants will endeavor to examine these documents, and particularly this document in detail, and, if they are able to do so, unless they find something in this document which they question, we will admit that it is an authentic copy of the constitution and bylaws as of the date set forth on the first page, but reserve the right to object to its admissibility on the ground it is incompetent, irrelevant
2901 and immaterial.

"Mr. Marcus: Will Counsel let us know prior to the date of the trial?

"Mr. Jaureguy: We will endeavor to, yes. If you will tell me where you got it, maybe we can admit it now.

"Mr. Galassi: Obtained it from Clyde Foley.

"Mr. Jaureguy: On Counsel's assurance that it was obtained from Mr. Foley, we will withdraw our objection that it might not be an authentic copy, but will admit that it is an authentic copy of the constitution and bylaws, but reserve our objections to admissibility on the ground of being incompetent, irrelevant and immaterial.

"Mr. Marcus: Will Counsel agree that, subject to their right to show otherwise, this is the constitution and bylaws of the Oregon State Medical Society for the period covered by the complaint?

"Mr. Jaureguy: No, we cannot, because, on the face of it, it says it was amended October, 1946.

"Mr. Marcus: I may say that we have subpoenaed the constitution and bylaws in existence during any of the period covered, so we are calling for any constitution and bylaws other than this one.

"Mr. Jaureguy: It appears on the face of it that this incorporates amendments passed subsequent to the 1st of January, 1946. It says 'Bylaws amended as of Oc-
2902 tober, 1946.'

"Mr. Coughlin: The constitution and bylaws were amended fully in 1939, so the constitution and bylaws, 1936 to 1939, may have been quite different from this copy.

"Mr. Jaureguy: We won't stipulate any further.

"Mr. Marcus: We have subpoenaed the constitution and bylaws.

"(Document entitled 'Oregon State Medical Society, Constitution and Bylaws, adopted September 9, 1939, Bylaws amended as of October, 1946' thereupon marked Plaintiff's Pre-Trial Exhibit No. 4.)"

Mr. Galassi: I may say for the record that what has just been read illustrates, in our opinion, the necessity of the subpoenas issued.

Q. Mr. Foley, can you now state from your recollection whether there were any substantial differences between the constitution and bylaws of the Society in existence between January, 1936, and September 9, 1939? A. You say, were there any differences between January, 1936—

Q. —and 1939? A. Yes, because, as indicated here, the constitution and bylaws were amended fully in 1939.

Q. Are there any differences in the bylaws prior to the 1946 amendments? A. Well, I would assume not from this copy.

2903 Mr. Jaureguy: You mean, from this transcript?

A. Yes.

Mr. Galassi:

Q. This constitution was adopted September 9, 1939. The period of the complaint is January 1, 1936, on. Presumably there was a constitution in effect in January, 1936. Your statement, as I understand it, is that there were considerable changes at the time this particular document was adopted in 1939, is that correct? A. There are certainly some changes; I couldn't say offhand how extensive they were.

Q. Could you obtain for us a copy of the constitution and bylaws in existence during the period 1936 to 1939? A. Yes, I think so.

Q. Are constitutions and bylaws of the Society kept in their own file? A. Yes.

Q. They are not kept with the correspondence? A. I think we have a file labeled "Constitution and Bylaws" and in that file would be what you are asking about.

Q. Can you tell us of any publication in which the constitution and bylaws of the Society might be found? A. Well, it is my recollection that when that revision was made in 1939 that was incorporated and published in Northwest Medicine.

Q. Is that the usual practice? In other words, if
2904 it was adopted in 1939, with amendments, and published then, would the time that any previous constitution was adopted also likely have been published in Northwest Medicine? A. It is possible, but I am not certain of that.

Q. I call your attention now to Paragraph II of the subpoena duces tecum, issued to OSMS, that asks for resolutions, minutes, reports and studies reflecting any action taken or in which any reference is made respecting items enumerated "A" through "J." Isn't that correct? A. Yes.

Q. I suppose resolutions of the Society would normally be found in the minutes of the Society, would they not? A. That is right.

Q. Would such resolutions be kept in any particular place, in any separate file? A. No.

Q. Would they be with the minutes? A. They would be incorporated in the minutes.

Q. Are the minutes maintained in their own file? A. Yes.

Q. Do you recall the names of the FBI agents who examined the documents of OSMS? A. Initially, particularly in 1948, Mr. Belfrey was the one in charge—I think he was alone at that time. Later, I think after this suit had been instituted, Mr. Belfrey was in, but it is
2905 my recollection that he had two other people doing the actual work.

Q. You do not know their names? A. No.

Q. But it was you who gave him the minutes of the Council to examine? A. I did, and, to some extent, he worked with Mr. Miller, I think, when I was busy. When I was busy, Mr. Miller took care of his requests.

Q. Is that this year or in the first instance a year ago? A. In both instances.

Q. In both? A. Yes.

Q. You did not permit them to go into the files themselves? A. No, they didn't go into the files, that is right.

Q. They asked, however, to see documents other than the minutes, did they not? A. I am rather confused about the different times they came in. Initally, as I recall, what was asked for was the minutes, and I cannot be sure whether later they asked for other things or not, but initially they did not.

Q. By "initially" you mean in April, 1948? A. Yes.

Q. Can you testify as to the examination made, I believe in April of this year, whether or not they asked to see or to examine documents other than minutes?
2906 A. There was some question raised about it, but it seemed they were perfectly satisfied with what they got.

Q. By "perfectly satisfied" you mean they got just what they asked for and they did not ask for anything else. In other words, I am not clear that that answers my previous question, as to whether or not they asked to see the files generally or just specifically the minutes and the constitution and bylaws? A. I cannot answer that question clearly because I do not recall all our conversations on that point. I do not recall that they asked to go through the files completely at any time. I do not remember any such request being made to me.

Q. You would just give them the minutes to look at? A. Either myself or Mr. Miller, either one of us. We were working together on it. When I was busy, he did it; and when he was busy, I did it, but between us we did. That is right.

Q. Were they required to wait any length of time to examine these minutes? A. No. As a matter of fact, we turned over the auditorium in back of the office and they took the material back there; in other words, we provided them with a place to work.

Q. Are these minutes kept in looseleaf form, in a looseleaf handbook? A. Most of them, yes.

Q. Have you, generally, located most of the Council minutes from 1940 and 1941? A. We located some
2907 minutes. The last time Mr. Belfrey was there—I think it was two or three weeks ago—I told him that we had located some minutes and that if he would get in touch with me we would go over them. I have not heard from him.

Q. You have not heard from him? A. No.

Q. In other words, to the best of your knowledge, he

has not been there, nor have any other FBI agents been over to examine those minutes? A. No. On the occasion of the previous visit, when we had this very brief conversation, apparently some original photostats had not been taken very well, or something, so he asked again to have certain minutes, which we gave him. He may still have them. At that time I told him we had located some other minutes, that he would be free to see them any time he wanted to.

Q. You did not give any FBI agent any minutes beyond October, 1948, did you? A. Well, I can't answer that. I don't know.

Q. However, there should be minutes since October, 1948, should there not? A. That is right, but it was my impression that the minutes sought were minutes up to
the time of the filing of this suit, although we
2908 haven't got in any particular discussion about that.

Q. But the minutes since the filing of the suit would be in the same file with the others, is that correct? A. Yes.

Q. And would be in this looseleaf notebook, or a similar looseleaf notebook? A. Yes.

Q. I suppose written reports and studies made in connection with Council work of the Oregon State Medical Society are not of too frequent occurrence, are they? A. Do you refer to the more or less elaborate reports made to the Council?

Q. Well, reports or studies made on any particular subject should be within the offices of the Society or some committee or board or other unit thereof. A. Normally a committee reports at the annual meeting, and that is the only time they do report. Sometimes, however, they report on an important matter to the House of Delegates, but usually at the annual meeting. However, there are occasions when special committees are appointed for some specific purpose and they make reports to the Council.

Q. Are such reports and studies presented orally and, if presented orally, are they also in writing? A. Very
often committees report orally, and we sometimes
2909 reproduce them if it is an important question on
which there is action taken; we reproduce in the minutes the substance of what has been reported orally.

Q. Wouldn't they also, even though perhaps reporting orally, submit at the same time, or just prior or subsequent thereto, a written report? A. Not always, because

just yesterday, when I was running down certain documents that had been asked for, there was a reference made in the request to a report made at a certain Council meeting, and when I went to examine the minutes it was very clear the report had been oral, because the minutes were quite elaborate on the report. What I am getting at is this, however: That although a report is referred to in the minutes, that does not necessarily mean that there is a supporting independent document in writing, you see.

Q. Such reports and studies as would be made and are made are not intermingled with the correspondence, then? A. No. We have provided, I think, various reports that have been asked for which are independent of the minutes.

Q. But are they kept in a separate file? A. Under a subject file, yes, the committee files.

Q. Are they filed according to the subject matter? A. Normally, when there is a committee that is going to be fairly active, a file is set up on that material and that material is in that committee's file.

2910 Q. Then you do have files according to the several committees, boards and bureaus of the Society? A. Well, I am referring here particularly to special committees that make more or less, what you might call, elaborate studies, more elaborate studies than the usual standing committee which sometimes makes a very brief report.

Q. I understand that, but, say one of these special committees did have occasion to render a report on some particular business of the committee and such report was put in writing, where would it be filed? Would it be under the heading of that particular committee? A. Yes, that particular committee.

Q. Then, would it be chronologically within that file, under that committee heading? A. Yes, that is right.

Q. Referring to the items or Subdivisions A, B and C of Paragraph 2 of the subpoena, such items would normally be related to one another, would they? A. You say Items A, B and C?

Q. Yes. A. Those are subjects that are related, yes.

Q. Do you have files set up for Prepaid Medical Care or for Prepaid Hospital Care material under that heading or some other particular heading? A. Not over this entire period, no.

2911 Q. Does the same distinction you made earlier apply? A. Yes.

Q. About filing separately? A. Yes.

Q. As to material since 1937, which would normally have

been kept under a particular heading, had your system been maintained, where is that material kept? Is it in a drawer or in a box? A. We have a lot of that material just in boxes stored back in our storeroom.

Q. Are you the only person in an official capacity with the Society who would be in a position to locate material kept in back that way? A. Yes, myself or Mr. Miller could do it.

Q. If any particular material of that nature were desired on short notice, would there be any particularly expeditious way you could extract it? There would be no expeditious way in which you could extract it except upon yourself going back and trying to dig it out, is that right? A. That is true, except that our experience shows that with documents described as you have done in many cases up to now, we do not have too much difficulty to find them. It takes time to find them, but we can find them.

Q. Would there be a file heading for material such as Practice of Medicine by Hospitals, anything coming under that general category? A. No.

2912 Q. If anything were requested on that type of subject, you would then have to go back and search for it the same way as for anything else? A. That is right.

Q. Do you have any files set up according to particular hospitals, by name? A. No.

Q. Do you have any files for transactions with the Northwest Hospital Service Plan (Blue Cross)? A. No.

Q. Or with other prepaid medical or hospital care plans? A. The only material I think that is set up in the files, in file form, is in connection with records previously referred to, records of the Bureau of Medical Economics.

Q. That has not been maintained since 1942? A. That is correct.

Q. Would material pertinent to hospital associations be filed along with the rest in that file? A. There is some material, yes.

Q. Do you have a file heading for material pertaining to hospital facilities or services, including payment therefor? A. No.

Q. As indicated in Subdivision E of Paragraph 2 there? A. No.

2913 Q. You would, however, be likely to have some material of that nature in your files which would just be filed according to subject classifications, is that right? A. This is Subsection E you are talking about?

Q. Yes. A. I do not recall that we have any material on the subject mentioned in Subsection E.

Q. If you were requested to supply material of that nature, coming under that subsection, and you did not recall that you had it, in order to ascertain whether you did or not you would have to make a general search through everything, is that correct? A. Correct.

Q. Do you have a file heading for material pertaining to rates of compensation or fees to be charged by doctors? A. At different times when a question of fee schedules has been up, of course, we have what you might call a working file covering the materials under discussion at that particular time.

Q. Would not such material include more than just the OSMS fee schedules? A. As a matter of fact, the State Medical Society does not have any medical fee schedule, as such, itself, but of course it has committees negotiating with the State Industrial Accident Commission, for example, on the question of fees, and when such negotiations are carried on, of course, there is a file on that
2914 subject.

Q. That is maintained separately under that heading? A. It is a working file for that particular designation.

Q. How would you refer to it if you asked one of your assistants to get something out of that file for you? A. The answer is that I would have to do it myself.

Q. Do you have a file heading for material pertaining to expulsions or other disciplinary action on the part of OSMS or of its component medical societies?

Mr. Jaureguy: Pardon the interruption, but I think up to this point—I am not sure; correct me if I am wrong—you have been referring to the files of the OSMS?

Mr. Galassi: Yes.

Mr. Jaureguy: Are you still referring to the files of the OSMS?

Mr. Galassi: Yes. I will announce when I come to the point where all questions will be directed to the files of the Multnomah County Medical Society.

Mr. Jaureguy: Thanks very much.

A. With regard to the State Medical Society in relation to this Subsection G, as you probably know, the subject matter is normally that which relates to the county medical society, the local medical society.

Mr. Galassi:

Q. I realize or, at least, I am under the impression that wherever there are disciplinary proceedings affecting any member of a county society, necessarily the proceedings are part of the county society's actions, but such action is reviewed, is it not, by the Oregon State Medical Society? A. The Council of the Oregon State Medical Society passes on questions or may review—Put it that way—may review disciplinary action of a component county medical society, and the only material that would be in the State Medical Society records with regard to that subject would be when there have been appeals to it.

2915

Q. When such appeals are made, is the whole record forwarded to the State Society and then kept on file there, and by the "whole record" I mean everything including a transcript of the proceedings before the county society disciplinary board or unit? A. Yes, the State Council has access to it—The Council receives from the county society a transcript and complete record of the disciplinary action.

Q. So, wherever such exists, that would be on file in your office? A. That is right.

Q. Do you have a particular heading or headings in which you file such material which you refer to? A. No, but you see the files of the Multnomah County Medical Society and the State Medical are lodged in the same place, and if I went to look for the material on which this appeal was based I would go into the county files.

2916

Q. When you say "the same place," I understand that they are in the same building, or is it the same office? A. The same office; that is right.

Q. For instance, suppose it concerned a disciplinary action of some other county society other than the Multnomah County Medical Society, where would such files be kept? A. In the State Medical Society files.

Q. Would there be a heading or a subject classification on a file drawer, for instance, referring to that material by some designation? A. Well, I am thinking of a particular case. The only case I recall, the only record we have in the State Society with regard to this subject would be notes and minutes of the Council, which had to do with the case, you see.

Q. Is there a separate or subordinate heading for ma-

terial or records relating to proceedings of the OSMS Board of Censors, acting as the Society's disciplinary body, on appeal or on review? A. No, we have no files set up for the Council acting as the Board of Censors. The only thing on that would be, as I say, on an appeal from the decision of a county society, and that would be in the minutes.

Q. But when the Council does sit on appeals in
2917 such instances, it is the Board of Censors, is it not?
A. That is correct, yes.

Q. I think you mentioned a moment ago that the Council or Board of Censors of the State Society, sitting on appeals, might review disciplinary proceedings of some component society of the Society. Does that mean it only does when such appeal is made, or generally in every instance? A. I am not sure how the bylaws read on the subject, but the Council of the Oregon State Medical Society is an appellate court, available to the member of the county society who has been disciplined. You are asking now—

Q. —whether or not the Council itself, as a Board of Censors— A. —initiates the action?

Q. No. What I had in mind was this: Suppose we have a situation where a particular county medical society voted adversely on a member, within that particular county society, which would mean that the member concerned would either resign or be expelled. If the member affected made no appeal of his own volition or of his own right, would such proceedings be automatically forwarded to the State Society to be reviewed? A. I think not.

Q. In such an instance, such adverse action would be automatic and would, in that case, result in his exclusion from the State Society and later from the American
2918 Medical Association? A. That is right.

Q. Would anyone, including yourself, in your office know whether certain specific documents are on file with the Society? In other words, if you were asked by anyone, whether an officer of the Society or an outsider, whether or not a particular document existed, would you alone know that or would anyone else in your office be able to give the answer? A. I would have to give the answer, I think.

Q. If we furnish you with a list of the names of persons involved in disciplinary proceedings, will you obtain transcripts thereof for us if you have them? A. Well, again I will have to reply that I will do whatever our legal counsel tells me to do.

Mr. Jaureguy: Or the Court.

Mr. Galassi:

Q. Are you able to give us the names and addresses of the reporters who reported the disciplinary proceedings of which you have copies or records in your office?

Mr. Jaureguy: Referring to the county society now?

Mr. Galassi: In this case it would refer to both, because if proceedings were initiated in the county society and then reviewed by the State Society, as I understand it,—

Mr. Jaureguy: You mean the records in the State Society files?

Mr. Galassi: Yes.

Mr. Jaureguy: You mean, does he actually have the information?

2919 Mr. Galassi: I will rephrase the question.

Q. If we give you the names of persons involved in disciplinary proceedings, which names you would have a record of in the State Society files, would you be able to furnish us, and would you furnish us, with copies of the transcripts of such proceedings and, where transcripts exist, transcripts of not only the State Society reviewing the county society's action but also transcripts of the initial proceedings before the county societies? A. Again I will say I will be guided by legal counsel and the Court in that matter.

Q. Are there any files set up under headings pertaining to the formation or proposed formation of Prepaid Medical or Prepaid Hospital Care plans? A. That is Item H?

Q. I believe that is, yes. A. Well, I would say wherever a committee has considered the question of the formation of Prepaid Medical and Prepaid Hospital Care plans we have material on them.

Mr. Jaureguy: I don't think that is responsive to the question.

Mr. Galassi: No. I assume you have the material, but what I am trying to get at is: Is it segregated under headings pertaining to particular topics? A. Well, it is accessible. I would say that the material is accessible.

2920 Q. But it is not filed in a drawer under a separate designated title? A. No.

Q. Do you have material filed under a heading pertaining to Cooperation of Doctors or to Activities of Doctors

with Prepaid Medical Care or Hospital Plans not approved by the State Society? A. You mean some separate file?

Q. Yes, under that heading. When you say it is accessible, is it accessible to anyone going directly to a particular place and pulling it out, because it would be labeled, perhaps not in just the way I have designated but in some way that would cover that topic? A. I don't recall offhand if we have any material on that question.

Q. In your opinion there is no such material ever related to Medical Ethics? A. Just what was your question again?

Q. Material pertaining to Cooperation of Doctors or to Activities of Doctors with Prepaid Medical or Hospital plans not approved by the State Society? A. As I say, I do not recall any specific material we have on that question. It is possible we have it, though, but I do not recall it.

Q. Material on Prepaid Medical and Prepaid Hospital Care plans, is that material set up in a separate
2921 file under a separate heading? A. It was at the time I mentioned, going back to my previous statement.

Q. In connection with any subject topic where there is an overlapping or extension beyond 1937, you have to look in two places to cover that, is that correct? A. That is right.

Q. Would material on OSMS approved plans be separate from such material on non-approved plans? A. Well, in the Bureau of Medical Economics files there is no doubt a classification relating to approved plans, because that was one of the things that the Bureau did, was to approve plans.

Q. In that connection, they would also necessarily have not approved others. In other words, would the file where they approved some be kept separate from whatever material there was with respect to others that they did not approve.

Mr. Coughlin: First of all, I think you have to find out whether or not there were any plans which were not approved or which were disapproved, to see whether there is any distinction there.

Mr. Galassi: It is my recollection that in answer to some interrogatory relating to some other material that you supplied some mention was made of a plan proposed,

perhaps not more than one, that was not approved.
2922 I cannot, at the moment, place it in my mind but the reason for asking that question was that I was under the impression that there were plans which were not approved.

Q. Mr. Foley, you do not recall, then, as to such material with respect to prepaid plans, where it was filed either with the Bureau of Medical Economics or subsequently, that there was any separation of the material coming under that heading? A. No, that is right.

Q. How about the correspondence of the Society, the Society's correspondence file? Is it filed by topic or alphabetically in different folders, in different drawers, or just how is it set up? A. Mostly all the material since 1937 which is not filed under some working file under a particular subject is just filed chronologically by years.

Q. The names of the addressees as to outgoing correspondence and the names of writers of incoming correspondence, the authors of incoming correspondence, are not broken down alphabetically? A. That is correct.

Q. Are there any files in the records showing the time and place of meeting of the State Society, the names and positions or data respecting the background of speakers at such meetings, the subject matter of the speeches or reports or discussions had, and the names of members or
2923 others present when reference was made to any such matters enumerated in Paragraph 2 of the subpoena? Are there any files regarding that in the Society? A. You are asking now about meetings of the general body of the Oregon State Medical Society?

Q. Yes. I assume that where such meetings took place there are minutes kept of all those meetings, is that correct? A. The State Medical Society meets annually in scientific session.

Q. Yes. A. Of course, there is no record kept of that. The program consists of scientific papers. If anybody hands in a paper in such form that it can be published, it is published in Northwest Medicine, but generally the Society, whenever it meets annually, is concerned solely with scientific subjects. It is a scientific program, in other words.

Q. When I speak of the Society I also mean any committee, Council, boards or bureaus or official subdivisions or organizational units of the Society. I assume that such committees and so forth do meet on occasions for the

transaction of their own particular business? A. The Council does. The Council meets usually monthly. It does not meet always monthly but meets normally every month except during the summer.

Q. A particular unit might not meet monthly but still might have meetings within the year in which it is set up to function. I understand that there are, besides
2924 the Council, a number of standing committees. A. Oh, yes, but many of these standing committees do not have meetings at all. Those that do have meetings don't keep any running record of their activities. If they have a report to make, the chairman usually makes it, makes the report, and it is submitted and then incorporated in the minutes.

Q. When you say "It is incorporated in the minutes—" A. I am speaking of the Council because these committees, of course, report to the Council. If they have anything tangible to report, it is incorporated in the minutes of the Council.

Q. Before they report to the Council, if they hold meetings, then do they appoint a secretary who records the minutes of that particular meeting? A. No.

Q. In other words, if I understand you correctly, there are no records in the files of the Society of the time and place, the subject matter, and the members present of any unit, committee or otherwise holding a meeting, other than such as is reported to the Council and recorded in the minutes of the Council? A. That is right.

Q. In other words, the minutes of the Council of the State Society are the only records containing information of the activities of any of the committees, subdivisions, units or otherwise of the Society, is that correct?
2925 A. That is correct.

Q. Would not the correspondence be likely to contain some such information on occasions, a reference to such meetings or the business transacted by any organizational sub-unit of the Society? A. I doubt it very much.

Q. Do you have any ledgers or journals or other books in which visiting speakers or invited guests at the annual or other meetings of the Society would register? A. We have a registration book, but you are speaking about men from the outside coming in to talk?

Q. Yes. A. Well, there is no rule about that. Sometimes they register and sometimes they do not. The members, of course, register and get a badge, you see.

Q. The members of the State Society when they come

to a—— A. —to an annual meeting, they normally register and get a badge, you see.

Q. Do you have a file under the heading of "Dr. Fishbein" or any other official or representative of the AMA who may have addressed the Society or corresponded with the Society or anything of that sort? A. Well, of course, if a speaker comes in from the outside, we carry on correspondence with him with respect to his coming.

2926 Q. Would that correspondence be filed generally with other correspondence— A. Yes.

Q. —or would it be kept separate? A. That is right.

Q. Do you have any files of material pertaining primarily to the American Medical Association matters? In other words, do you have any files containing matters relating to the exchange of views on policies or information passing between the OSMS and the AMA regarding topics— A. Not in any of our files, no.

Q. Do you have any card indexes or files of members of the Oregon State Medical Society who have attended meetings of the AMA, or some Council or body or unit thereof, as an AMA trustee, fellow, delegate from the Oregon State Medical Society or other official representative thereof? A. Well, the only way the Oregon State Medical Society is officially represented in connection with the AMA is through its House of Delegates. Of course, then, they have lists of the delegates from Oregon year by year, I believe, but their other relationship with AMA is all individual. We very often even do not know who has attended an AMA meeting; we have nothing to do with it. It is a matter between the individual member and the AMA, just as in the case of the meeting this year. Of course, the various Councils of the AMA are composed of members from all

2927 over the country, on appointment from AMA which —with which we have nothing to do.

Q. You do not keep any record of members of the Oregon State Medical Society who do hold positions of responsibility, either as officials or in a representative capacity with AMA on an individual basis, other than as a delegate from the Oregon State Medical Society? A. That is right. We do not.

Q. Do you have any files for material under a heading pertaining to OPS matters? In other words, speeches, conferences, discussions and exchanges of views, information and so forth passing between OSMS and OPS with respect to the matters enumerated in Paragraph 2 of the subpoena? A. We have no file which covers material relat-

ing to the Oregon Physicians' Service. The Oregon Physicians' Service is a separate corporation and carries on its own affairs. We keep no file particularly on the OPS.

Q. The Oregon Physicians' Service, according to my recollection, carries on its letterhead "Sponsored and Approved by Oregon State Medical Society," which would lead me to believe that there is some element of supervision or connection, at any rate, between the two organizations. A. Yes, the Oregon Physicians' Service is sponsored and approved by the State Society, but it operates as an independent entity.

Q. Yes, I understand that but, because of that connection, it occurred to me that there might possibly be
2928 some file in your office pertaining to matters, as I stated, existing between the Oregon Physicians' Service and the OSMS.

Would there be any records or documents referring to limitation of geographical operations for OPS or any other prepaid medical care plan, approved by the State Society, in your files? A. I don't follow you.

Q. What I am getting at is: I understand that OPS does not go into certain counties in Oregon where there is a similar organization sponsored and approved by the local county medical society for that particular type of contract.

With reference to that situation, would there be anything in your files covering that limitation on geographical operation of the Oregon Physicians' Service? A. I don't recall anything specifically. Of course, when the Oregon Physicians' Service was set up it was understood in those counties which had local medical service bureaus, under the principle of local autonomy which runs throughout this entire situation, the Oregon Physicians' Service would not operate in areas in which these other bureaus were already serving the public. Since the establishment of OPS that has been the situation. The particular subject has come up, and that has been the general understanding.

Q. It seemed to me that, since the State Society approved plans other than OPS, which operate in coun-
2929 ties where that local autonomy existed, there may be something in your files covering that arrangement or concerning geographical limitation of contracts written with OPS in those counties. A. Well, if there is anything at all, it would be in that original action which led up to the organization of the Oregon Physicians' Service. I don't recall that question has ever been raised since Oregon Physicians' Service has been operating. The question

which you now ask I do not think has come up. A general policy has been followed, I think.

Q. By that you mean since your recollection is that you do not think the matter has ever come up, you also do not think there is anything in the files regarding that topic. A. Right.

Q. Do you have any files for material under the heading or headings pertaining to component county or district medical societies? In other words, correspondence or any other records filed separately under headings giving the names of the various component societies of the State Society? A. In 1937 such files were set up. I do not think we set up one for each county society, but when we had material which bore on a particular county society a file was established for that.

Q. Would speeches or conferences or discussions on policies, statements, or other information passing between the State Society and one of its component societies, or by one to the other, covering the matters enumer-
2930 ated in Paragraph 2 of the subpoena, be filed under such headings as existed before 1937? A. Up to 1937, yes, but after that, no.

Q. After 1937 it would be just generally in the back? A. That is right.

Q. Without any segregation at all? A. That is right.

Q. Do you have any files pertaining to publications published by the Oregon State Medical Society, including Northwest Medicine? A. We do not have complete files of Northwest Medicine. Those are accessible, of course, at the University of Oregon Medical School Library. There are publications that have been issued from time to time and I think we have probably complete files of those.

Q. Are they separated as to those issues? A. Yes.

Q. Do those files contain merely the publications themselves or do they also include documents referring to the relationship between the Oregon State Medical Society and the publications, including documents pertinent to the names and positions of members of the State Society connected in any official capacity with such publication, and to the transmittal of items for publication? A. Will you please ask that again.

Q. My impression from your answer to my first question was that you had files, separate files of the various
2931 publications, except that they might not be complete as to Northwest Medicine, put out at one time or another by the State Society.

Now, I am asking whether those files are restricted solely to the publication of magazines or bulletins or whatever else it may be themselves, or do those files also contain documents relative to the relationship between the Oregon State Medical Society and the publications and by "documents" I include correspondence, which would give the names of the members of the State Society who are serving in any official capacity with the publications concerned, and also to the transmittal of items for publication. A. Well, it could only be one. In the case of Northwest Medicine I think you already have the names of the three trustees. I think you have that year by year.

Q. Yes. A. In addition to that, at various intervals there have been several members of the Society who have served in the capacity of editor of what is called the Oregon Section. I am not sure whether you asked for the names of those individuals, but they would be readily accessible.

Q. I understand, but that still is not answering the question. Do the files, for instance, of Northwest Medicine that you speak of contain just copies of Northwest Medicine, or do they contain these other documents from which you get the names of the trustees and so forth? A. Well,
2932 the names of the trustees are shown in the magazine itself.

Q. That is what I am getting at. Is there anything in these files besides the magazines? A. The only thing I can recollect offhand is certain routine correspondence, for example, with Northwest Medicine having to do with mailing lists and so on and so forth, matters of a routine character. I don't recall anything else.

Mr. Jauréguy: You mean that correspondence is in a separate file, labeled as such?

A. Yes, it is kept separately.

Mr. Galassi:

Q. As to such publications that you have on file, are those publications, or the material printed therein, indexed according to subject matter? A. They are the printed copies of the publications themselves.

Q. Is there an index in front which you prepared or somebody in your office has prepared which would give some indication as to what is in this file? A. No.

Q. In other words, I am thinking that if you had such an index it might cover the same subjects enumerated in

Paragraph 2 of the subpoena. For instance, if you, yourself, or somebody in the Society wanted to see whether anything had been published on a particular topic, and that would include everything in Northwest Medicine,
2933 Medicine, you would have to go through each issue of Northwest Medicine? A. Northwest Medicine has an index of subjects, I think by the authors.

Q. The magazine itself? A. Yes, the magazine itself.

Q. You do not have any index for other publications of material contained therein? A. No, sir.

Q. Do you have a file heading or category for circular letters on statements of policy circulated or distributed by the State Society to its individual or component society membership? A. No.

Q. How would such policy matters be filed? How would the information as to that be recorded? A. Since 1937, we would have to search through our general file for each year.

Q. Wherever there are circular letters? A. Yes.

Q. They would be just in the general file of material? A. That is right.

Q. But other policy matters, how are they brought to the attention of the membership of the State Society? Is it usually by circular, announcement in writing, or is it done in some other fashion? A. Well, it is generally
2934 done by what you might call a bulletin or a letter which, in some case, goes to one of the officers of the component society or, on occasions, generally, direct to each individual member.

Q. You have been advised, I believe, that minutes of meetings of the House of Delegates of the Oregon State Medical Society in 1948 were not printed in Northwest Medicine. A. I don't think they have been written up, as a matter of fact.

Q. The meeting of the House of Delegates is generally held in the fall? A. That is right.

Q. That usually appears in the magazine by April of the following year? A. A couple or three months or so, that is right.

Q. It has not appeared in Northwest Medicine? A. For 1948, that is right.

Q. Do you have those minutes on file? A. We have notes, but they have not been written up.

Q. When you say they have not been written up, does that mean the editor of the Oregon Section has not prepared the transcript for submission? A. Well, we do that in the office.

Q. You do? A. Yes, that is right.

2935 Q. Has that been done yet? A. No, it has not.

Q. When that is done, it will be sent in for publication? A. That is right.

Q. In the usual manner? A. Yes, sir, that is right.

Q. Is there a separate file heading or category for material pertaining to limitation of coverage on policies or contracts written by OPS or any other prepaid medical care plan approved by the State Society?

Perhaps I should have asked that question back there when I was asking you about the files of the OPS matters in relation to the connection between OPS and OSMS. A. You are asking now whether there is any material—

Q. Whether in your files, either separately or in a general file, there is material pertaining to limitation of coverage on policies written by OPS or any other prepaid medical plan, which is approved by the State Society. A. What do you mean by limitation of coverage?

Q. For instance, I understand that to be eligible for a particular type of prepaid contract, be it Oregon Physicians' Service or any other approved plan, a person, on an individual basis, has to be of a certain income level before he can qualify. A. That is right.

Q. Matters of that sort I mean to include under the heading of limitation of coverage. Would there be any-

2936 thing of that nature in the files? A. If there were, it would be incorporated into the minutes, because that would be a question of policy, it would appear.

Q. Wouldn't there likely also exist correspondence between directors or officials of Oregon Physicians' Service with OSMS relative to matters of that sort, or changes in policy affecting matters of that sort? A. Anything of that character would come up before one of the official bodies of the Society and be incorporated in the minutes.

Q. That completes the questions I have with respect to the State Society. I would now like to address the rest of my questions to you in your capacity with the Multnomah County Medical Society. Would you state your position with the Multnomah County Medical Society? A. Executive Secretary.

Q. And how long have you been employed in that capacity? A. I cannot give you the exact date, but I would say starting around 1930. Well, there was an interval in 1946 when they had an independent individual employed, and then I resumed both jobs again I think in 1947.

Q. Then, for about a year in 1946— A. Around that time. I can get you the exact date if necessary.

Q. —there was someone else who held that title?

2937 A. That is right.

Q. What was his name? A. Richard K. Stanton.

Q. Have the files of the Multnomah County Medical Society been located at the same office as those of the State Society since you have been employed in the capacity of Executive Secretary for both? A. That is right.

Q. You have charge of the files of the Multnomah County Medical Society and are familiar with those, as such? A. That is right.

Q. Do you have an assistant who does the actual filing in connection with the Multnomah County Medical Society files, or do you do that yourself? A. We have a joint stenographer between the two societies.

Q. Whatever assistant you have with respect to the Multnomah County Society files would also act in the same capacity in respect to the State Society files? A. That is right.

Q. Is that person the Miss Coburn you mentioned earlier? A. Yes.

Q. Is Mr. Miller also familiar with the Multnomah County Medical Society files? A. Yes. He is Assistant Executive Secretary of the Multnomah County Medical Society, also.

2938 Q. And the office and records of the Multnomah County Medical Society are also in the Medical-Dental Building? A. That is right.

Q. Would you describe the files of the County Society, how the files of the County Society are set up? Is that simliar to the State? A. That is right. In 1937, the date I spoke of before, their files were set up in conjunction with the State Society files.

Q. When you say "in conjunction" do you mean the records and papers and other documents are actually intermingled? A. No, they are separate, but incorporated in the same general basic filing system.

Q. The same system applies to both? A. That is right.

Q. If you want to refer to a document pertaining exclusively to the County Society, you would go to one place for that? A. That is right.

Q. And not elsewhere? A. That is right.

Q. Is there a file index for the County Society's material? A. It is incorporated in this general file index I spoke of earlier that was set up in 1937.

Q. That material also has not been kept up? A. That is right.

Q. Since 1937? A. That is right.

2939 Q. Are the correspondence files of the County Society maintained separately from the files containing minutes of the Multnomah County Medical Society? A. Yes.

Q. In such correspondence files all incoming and outgoing correspondence is intermingled? A. That is right.

Q. Filed chronologically according to date? A. That is right.

Q. With no breakdown? A. That is right.

Q. With no breakdown alphabetically according to the source or addressee? A. That is right.

Q. If you were requested by an official of the Multnomah County Medical Society for a specific communication in your files, would anyone in your office familiar with the files be able to get it, or would you have to get it, since 1937? A. I would have to get it.

Q. Is the Multnomah County Medical Society's filed material, since 1937, maintained in a separate room or section from the filed material for the State Society since that date? A. No.

Q. Is it kept in file cabinets or boxes? A. No,

2940 just kept in boxes.

Q. Only you are cognizant of what is Multnomah County Medical Society material and what is Oregon State Medical Society material? A. That is right.

Q. Are there County files used particularly for documents relating to Prepaid Medical Care plans? A. No.

Q. Are there any headings for files, such as Multnomah County Medical Society files for Contract Practice of Medicine or Medical Ethics, or topics of that sort? A. No.

Q. Is your answer the same with respect to a request for permission to go with you to see the files of the Multnomah County Medical Society after this deposition? A. Yes.

Q. That I would have to request the Court for such permission? A. Yes.

Q. Does the Multnomah County Medical Society furnish the State Society or the American Medical Association with membership lists in the same manner that you described with reference to the Oregon State Medical Society? A. No.

Q. Monthly reports on members? A. No; those reports are all made by the State Society.

2941 Q. Do they cover the County membership as well? A. Yes.

Q. Do you have on file copies of such lists of the County membership for the period covered by this complaint, 1936 on? A. Yes, we have a file card on every man.

Q. Now, taking up the subpoena duces tecum, addressed to the Multnomah County Medical Society, I will read the first item requested: 1. Copies of all constitutions and bylaws in effect during the period January 1, 1936, to May 1, 1949.

You gave the FBI agent a copy of the constitution and bylaws of the Multnomah County Medical Society, did you not? A. Yes.

Q. Is that a copy of the constitution and bylaws in effect during the entire period of this complaint, from 1936 through May 1, 1949? A. No, it was amended in that period, but I think maybe the copy that you have incorporates those amendments.

Q. We would have to refer to another copy in order to see the nature of the amendments covering the prior period, is that right? A. Yes.

Q. Do you have on file a copy of the constitution and bylaws of the Multnomah County Medical Society prior to the period when these amendments were adopted?

2942 A. Yes.

Q. Paragraph 2 of the subpoena duces tecum to the Multnomah County Medical Medical Society states: "Likewise, minutes, resolutions, agreements, reports and studies in which is reflected any action taken or in which any reference is made to the same topics or subject matter enumerated in a similar paragraph addressed to the State Society." Would resolutions of the County Society be found in the minutes of that society? A. Yes.

Q. Are they maintained in a separate file or separate files or with the minutes of the Multnomah County Medical Society, all resolutions? A. Well, resolutions relating to matters of policy would be in the Council minutes.

Q. Would documents in writing on which these resolutions were proposed, prior to their adoption by the Multnomah County Medical Society, be maintained as well as the minutes in which such formal resolutions were or are recorded? A. Well, not unless the subject matter was such that a committee turned out a number of reports which led up to some action; otherwise, no. I think you

asked for certain copies of reports and so forth that led up to certain specific reports, and those have been supplied, I believe.

Q. For instance, suppose some official or some committee proposed the adoption of a resolution which
2943 which was written up and presented at a County meeting, and the resolutions were not adopted; would that proposed resolution be kept on file? A. Yes, it would, but of course it would be incorporated in the minutes, too, indicating that it was rejected, if it were rejected.

Q. Do you recall the names of the FBI agents who examined the documents of the Multnomah County Medical Society? A. Well, initially it was Mr. Belfrey and then later two other men.

Q. The same agents who examined the Oregon State Medical Society records? A. Yes.

Q. They were not permitted to examine the files generally of the Multnomah County Medical Society, were they? A. They did not examine the files, that is right.

Q. But they requested permission to see documents other than the constitution and bylaws and minutes, did they not? A. Well, as I say, again I cannot be clear about that point.

Q. When they came in on one or more occasions to see you, did they lump together their requests for documents both covering the State Society and the Multnomah County Medical Society, or did they make separate requests? A. No, their requests were made at the same time.

Q. In other words, your recollection is that as to what they requested with respect to the State Society, it
2944 would be identical with what they requested with respect to the Multnomah County Medical Society? A. That is right, yes.

Q. Did you, yourself, get out the minutes for them to look at, the minutes of the Multnomah County Medical Society? A. Yes, and, as I say, we made available space where they could go over them.

Q. Are the Multnomah Medical Society minutes kept separate in back? A. Yes.

Q. The same way as the State Society minutes? A. Yes.

Q. Would written reports or studies made in connection with work of a committee, Council or other unit of the Multnomah County Medical Society be presented and recorded more or less in the same manner as similar reports and studies for the State Society? A. Yes.

Q. Are such reports and studies before the Multnomah County Medical Society maintained separately in its files or are they mingled with correspondence or other files of the Multnomah County Medical Society? A. Well, some of them are separated, especially where a committee carried on studies over a period of time and then there is a working file of the committee's activities.

2945 Q. How do you distinguish between what reports are kept filed separately and what are not? I gathered from your previous statement that some are and some are not. Is it solely because of the time element involved? A. That is right, and the elaborate nature of the committee's work.

Q. Where they are filed separately, how are they filed? Chronoligically or according to the subject matter? A. Subject matter, with a label on the file.

Q. Referring to Subdivisions a, b and c, Paragraph 2 of the Multnomah County Medical Society subpoena, with respect to material on file in the Multnomah County Medical Society, these subjects would normally be related, would they not? A. Yes.

Q. Do you have the files for Prepaid Medical Care or Prepaid Hospital Care under headings covering those topics within the County Society file? A. No, the County Medical Society files usually do not contain as voluminous material as the State Society files. The State Society has a broader interest in those things, and their files are more elaborate.

Q. You would have some material covering these topics in the Multnomah County Medical Society files? A. Yes, but that is not separated out by subject matter, as

2946 you know.

Q. How would it be filed? A. Well, as I say, the Multnomah County Medical Society files on subjects as broad as that are practically non-existent because the State Society is the one that has a broader interest in those questions.

Mr. Jauregui: He is asking how they are filed, whether it is one document or a hundred.

A. We haven't any specialized filing system of any kind aside from these subjects that you have named here.

Mr. Galassi:

Q. If you got a request or, for instance, in complying with this subpoena, to be sure that you were pulling out

of the various files everything covered by these items designated, you would have to make a general file search? A. That is right.

Q. You have no way— A. —That is right.

Q. —of pinpointing that material? A. That is right.

Q. Does that apply to all material designated in those several subdivisions under Paragraph 2, that there is no separate heading for any of them? A. Except with regard to Subdivision g which has to do with disciplining members. I assume that is the one you are referring to, and—

Q. Yes. A. I think there is a file for each in-
2947 dividual concerned.

Q. By name of the individual A. By the name of the individual.

Q. That file would contain a transcript of the proceedings before the Grievance Committee of the Society for that particular individual? A. Before the Board of Censors.

Q. Is not the disciplinary body of the Multnomah County Medical Society the Grievance Committee? A. No, it is the Board of Censors.

Q. Is my impression correct, that there is no Grievance Committee of the Multnomah County Medical Society? A. There is a Grievance Committee, but its functions are to investigate reports of infractions of the principles of Medical Ethics; and if they find what seems to indicate disciplinary action, they then present it to the Board of Censors, which sits as a court.

Q. In other words, the basic distinction between the two bodies is that the Grievance Committee is an investigative body and the Board of Censors is a judicial body? A. Right.

Q. Does it ever happen that a member of the Grievance Committee is also a member of the Board of Censors at the same time, or with respect to the same proceedings affecting a member? A. No.

2948 Q. In other words, if he is on one committee, he is not on the other? A. That is right.

Q. Do the separate files under the names of the members affected include reports of the Grievance Committee, as an investigative body, as well as a transcript of the hearing before the Board of Censors; in other words, the whole case, as we might call it, on that particular individual, from the time it was initiated until it is closed out and sent up on appeal or review to the State Society? A.